

<b>Tab 1</b>	<b>SB 44 by Wright;</b> (Compare to H 00433) Drones						
516022	A	S	RCS	CJ, Wright	Delete L.38 - 50:	01/26 02:55 PM	

<b>Tab 2</b>	<b>SB 144 by Brandes;</b> Searches of Cellular Phones and Other Electronic Devices						
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<b>Tab 3</b>	<b>SB 166 by Perry;</b> (Similar to H 00095) Public Records/Nonjudicial Record of the Arrest of a Minor						
922102	A	S	RCS	CJ, Perry	Delete L.54:	01/26 02:55 PM	

<b>Tab 4</b>	<b>SB 206 by Pizzo;</b> (Identical to H 00527) Visiting County and Municipal Detention Facilities						
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<b>Tab 5</b>	<b>SB 234 by Book (CO-INTRODUCERS) Bradley;</b> (Compare to H 00041) Sexual Offender Registration						
954436	D	S	RCS	CJ, Book	Delete everything after	01/26 02:55 PM	

<b>Tab 6</b>	<b>SB 274 by Perry;</b> (Identical to H 00093) Juvenile Diversion Program Expunction						
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<b>Tab 7</b>	<b>SB 288 by Rouson;</b> Victims of Reform School Abuse						
892684	A	S	RCS	CJ, Rouson	Delete L.154 - 174:	01/26 09:48 AM	

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Pizzo, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, January 26, 2021  
**TIME:** 9:00—11:30 a.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Pizzo, Chair; Senator Brandes, Vice Chair; Senators Baxley, Boyd, Gainer, Perry, Powell, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	<b>SB 44</b> Wright (Compare H 433, S 518)	Drones; Expanding the authorized uses of drones by law enforcement agencies, by a state agency or political subdivision, or by certified fire department personnel for specified purposes, etc.  CJ     01/26/2021 Fav/CS MS RC	Fav/CS Yeas 8 Nays 0
2	<b>SB 144</b> Brandes	Searches of Cellular Phones and Other Electronic Devices; Expanding the grounds for issuance of a search warrant to include content held within a cellular phone, portable electronic communication device, or microphone-enabled household device when such content constitutes evidence relevant to proving that a felony has been committed; adopting the constitutional protection against unreasonable interception of private communications by any means for purposes of obtaining a search warrant; prohibiting the use of certain communication content in any trial, hearing, or other proceeding which was obtained without a specified warrant, etc.  CJ     01/26/2021 Favorable JU RC	Favorable Yeas 7 Nays 1
3	<b>SB 166</b> Perry (Similar H 95, Compare H 93, Linked S 164)	Public Records/Nonjudicial Record of the Arrest of a Minor; Providing an exemption from public records requirements for a nonjudicial record of the arrest of a minor who has successfully completed a diversion program; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CJ     01/26/2021 Fav/CS GO AP	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, January 26, 2021, 9:00—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 206</b> Pizzo	Visiting County and Municipal Detention Facilities; Authorizing specified persons to visit at their pleasure county and municipal detention facilities; prohibiting persons not otherwise authorized by law from entering such facilities; prohibiting the unreasonable withholding of permission to enter such facilities from professional journalists or writers, etc.  CJ 01/26/2021 Favorable CA RC	Favorable Yeas 7 Nays 0
5	<b>SB 234</b> Book (Compare H 41)	Sexual Offender Registration; Redefining the term "sexual offender", etc.  CJ 01/26/2021 Fav/CS JU RC	Fav/CS Yeas 8 Nays 0
6	<b>SB 274</b> Perry (Identical H 93, Compare H 95, S 164)	Juvenile Diversion Program Expunction; Requiring the Department of Law Enforcement to expunge the nonjudicial arrest record of certain minors who have successfully completed a diversion program for any offense, rather than only a misdemeanor offense; authorizing a minor who successfully completes a diversion program for any offense, rather than only for a first-time misdemeanor offense, to lawfully deny or fail to acknowledge certain information, etc.  CJ 01/26/2021 Favorable ACJ AP	Favorable Yeas 8 Nays 0
7	<b>SB 288</b> Rouson	Victims of Reform School Abuse; Citing this act as the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act"; requiring a person seeking certification under the act to apply to the Department of State by a certain date; requiring the department to examine the application, notify the applicant of any errors or omissions, and request any additional information within a certain timeframe; requiring the department to certify an applicant as a victim of Florida reform school abuse if the department determines that the application meets the requirements of the act, etc.  CJ 01/26/2021 Fav/CS ATD AP	Fav/CS Yeas 6 Nays 1
Other Related Meeting Documents			

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/SB 44

INTRODUCER: Criminal Justice Committee and Senator Wright

SUBJECT: Drones

DATE: January 26, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	Fav/CS
2.			MS	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 44 expands the possibilities for drone use by law enforcement agencies, fire departments, state agencies, and political subdivisions.

The bill creates additional exceptions for law enforcement agency drone use found in s. 934.50(4), F.S. The new exceptions allow law enforcement agencies to use drones to:

- Assist with traffic management, except that the agency may not issue a traffic infraction based on images or video captured by a drone; and
- Facilitate evidence collection at a crime scene or traffic crash scene.

The bill authorizes state agencies and political subdivisions to use drones for damage assessment due to a flood, wildfire, or natural disaster, or for vegetation and wildlife management purposes on publicly owned land or water. The bill also allows certified fire department personnel to use drones to perform tasks within the scope and practice authorized under their certification.

The bill is effective July 1, 2021.

**II. Present Situation:**

A drone, also called Unmanned Aerial Vehicle (UAV) and Unmanned Aerial System (UAS), is defined in s. 934.50, F.S., as a powered, aerial vehicle that:

- Does not carry a human operator;

- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.<sup>1</sup>

Drones range in size from wingspans of 6 inches to 246 feet and can weigh from approximately 4 ounces to over 25,600 pounds.<sup>2</sup> They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone.<sup>3</sup> Drones can be equipped with infrared cameras,<sup>4</sup> and "LADAR" (laser radar).<sup>5</sup> In 2011, it was reported that the U.S. Army contracted with two corporations to develop facial recognition and behavioral recognition technologies for drone use.<sup>6</sup>

### Federal Aviation Authority

In February 2012, Congress passed the Federal Aviation Authority (FAA) Modernization and Reform Act of 2012 (Act), which required the FAA to safely open the nation's airspace to drones by September 2015.<sup>7</sup> The FAA regulates the use of drones as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security, but views considerations such as privacy beyond the scope of FAA authority.<sup>8</sup>

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.<sup>9</sup>

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<sup>1</sup> Section 934.50(2), F.S.

<sup>2</sup> 14 CFR Part 91, Docket No. FAA-2006-25714, Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, February 6, 2007.

<sup>3</sup> *Id.*

<sup>4</sup> Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Congressional Research Service, April 3, 2013, available at [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf) (last viewed January 7, 2021). Search and rescue drones equipped with thermal imaging help first responders identify the location of people lost in chaotic scenes, and police departments have started using drones with thermal capabilities to identify the location of suspects while keeping an infrared eye on their officers. *Best Infrared Drones (Buying Guide)*, Spire Drones, available at <https://buythebestdrone.com/best-infrared-drones/> (last viewed January 7, 2021).

<sup>5</sup> The research and development laboratory at the Massachusetts Institute of Technology has developed airborne lidar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-lidar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Lincoln Laboratory, Massachusetts Institute of Technology, R & D Projects, *Micro-lidar*, available at <https://www.ll.mit.edu/r-d/projects/micro-lidar> (last viewed January 7, 2021).

<sup>6</sup> Popular Science, Clay Dillow, *Army Developing Drones That Can Recognize Your Face From a Distance*, September 28, 2011, available at [pops.ci.com/technology/article/2011-09/army-wants-drones-can-recognize-your-face-and-read-your-mind](http://pops.ci.com/technology/article/2011-09/army-wants-drones-can-recognize-your-face-and-read-your-mind) (last viewed January 7, 2021). See also PoliceOne.com, 2017 Guide to Emerging Technologies, Val Van Brocklin, *Facial recognition technology and a 'reasonable expectation of privacy'*, May 16, 2017, available at <https://www.policeone.com/emerging-tech-guide/articles/facial-recognition-technology-and-a-reasonable-expectation-of-privacy-cxdrWsBRCu8Dieb/> (last viewed January 7, 2021).

<sup>7</sup> Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Congressional Research Service, April 3, 2013, available at [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf) (last viewed January 7, 2021).

<sup>8</sup> 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016.

<sup>9</sup> *Id.*

The 2016 small drone regulations are still in effect and include airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.<sup>10</sup>

### ***FAA Drone Airspace Restrictions***

It is a federal crime, punishable by up to 12 months in prison, to interfere with firefighting efforts on public lands. The FAA has designated generally restricted airspace including drone flight around and over wildfires. Congress has authorized the FAA to impose a civil penalty of up to \$20,000 against any drone pilot who interferes with wildfire suppression, law enforcement, or emergency response operations. Additional FAA airspace restrictions include the area around Washington, D.C., sports stadiums, and airports. Drone operators must educate themselves on these restrictions prior to flying.<sup>11</sup>

### ***FAA Drone Operational Restrictions Changing with New Rule***

The following are among the operational restrictions in the 2016 FAA regulation:

- Small unmanned aircraft may not operate over any persons not directly participating in the operation, not under a covered structure, and not inside a covered stationary vehicle;<sup>12</sup> and
- Daylight-only operations or civil twilight (30 minutes before official sunrise to 30 minutes after official sunset, local time) with appropriate anti-collision lighting.<sup>13</sup>

On December 28, 2020, the FAA announced a new rule that provides for routinely flying small drones over people, over moving vehicles, and at night if certain safety and pilot training criteria are met.<sup>14</sup> The final rule will become effective 60 days after the final rule's publication date in the Federal Register.<sup>15</sup>

### **Law Enforcement Use of Drones in Florida – Section 934.50, F.S.**

A law enforcement agency is defined in s. 934.50, F.S., as a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government

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<sup>10</sup> *Id.*

<sup>11</sup> FAA, Unmanned Aircraft Systems, *Airspace Restrictions*, July 16, 2020, available at [https://www.faa.gov/uas/where\\_to\\_fly/airspace\\_restrictions/](https://www.faa.gov/uas/where_to_fly/airspace_restrictions/) (last viewed January 7, 2021); see also FAA Drones and Wildfires Digital Toolkit, available at [https://www.faa.gov/uas/media/FAA\\_drones\\_wildfires\\_toolkit.pdf](https://www.faa.gov/uas/media/FAA_drones_wildfires_toolkit.pdf) (last viewed January 7, 2021).

<sup>12</sup> The term “over” refers to the flight of the small unmanned aircraft directly over any part of a person. For example, a small UAS that hovers directly over a person’s head, shoulders, or extended arms or legs would be an operation over people. Similarly, if a person is lying down, for example at a beach, an operation over that person’s torso or toes would also constitute an operation over people. An operation during which a small UAS flies over any part of any person, regardless of the dwell time, if any, over the person, would be an operation over people. 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016.

<sup>13</sup> *Id.*

<sup>14</sup> For example, prior to conducting small drone operations at night, the drone must be equipped with operational anti-collision lights that can be seen for 3 statute miles and have a flash rate sufficient to avoid a collision. FAA Executive Summary, Final Rule on Operation of Small Unmanned Aircraft Systems Over People, December 28, 2020, available at [https://www.faa.gov/news/media/attachments/OOP\\_Executive\\_Summary.pdf](https://www.faa.gov/news/media/attachments/OOP_Executive_Summary.pdf) (last viewed January 7, 2021).

<sup>15</sup> *Id.*

code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.<sup>16</sup>

The Florida Sheriff's Association indicates that 30 sheriff's offices have drones.<sup>17</sup> Of the 133 police departments that responded to the question regarding whether their department has at least one drone, 59 said they do have a drone and 23 responded that they plan to obtain a drone.<sup>18</sup>

Section 934.50(3)(b), F.S., provides that a real property owner, tenant, occupant, invitee, or licensee of the property is presumed to have a reasonable expectation of privacy from drone surveillance<sup>19</sup> of the property or the owner, tenant, occupant, invitee, or licensee by another person, state agency,<sup>20</sup> or political subdivision,<sup>21</sup> if he or she cannot be seen by persons at ground level who are in a place they have a legal right to be.<sup>22</sup>

Section 934.50, F.S., prohibits law enforcement agencies from using a drone to gather evidence or other information, with certain exceptions.<sup>23</sup> Evidence obtained or collected by a law enforcement agency using a drone is not admissible in a criminal prosecution in any court of law in this state unless it is permitted under one of the statute's exceptions.<sup>24</sup> An aggrieved party may initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation of s. 934.50, F.S.<sup>25</sup>

The exceptions in s. 934.50(4), F.S., for law enforcement agencies using drones to gather evidence and other information are as follows:

- The U.S. Secretary of Homeland Security determines that credible intelligence exists indicating a high risk of a terrorist attack by an individual or organization and the drone is used to counter the risk;
- The law enforcement agency first obtains a search warrant authorizing the use of a drone; or

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<sup>16</sup> Section 934.50(2)(d), F.S.

<sup>17</sup> E-mail from Florida Sheriff's Association Deputy Executive Director of Operations dated January 8, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>18</sup> E-mail from Florida Police Chiefs Association Executive Director dated January 20, 2021 (on file with the Senate Committee on Criminal Justice).

<sup>19</sup> Surveillance is defined in s. 934.50(2)(e), F.S.: With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or with respect to privately owned real property, the observation of such property's physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.

<sup>20</sup> A state agency, as defined in s. 11.45, F.S., is a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

<sup>21</sup> A political subdivision is defined in s. 11.45, F.S., as a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

<sup>22</sup> Section 934.50(3)(b), F.S. *See also* s. 934.50(5)(b)-(d) F.S., providing for compensatory damages, injunctive relief, attorney fees, and punitive damages for a violation of s. 934.50(3)(b), F.S.

<sup>23</sup> Section 934.50(3)(a), F.S.

<sup>24</sup> Section 934.50(6), F.S.

<sup>25</sup> Section 934.50(5)(a), F.S.

- The law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to achieve purposes including, but not limited to, facilitating the search for a missing person.<sup>26</sup>

### **State Agency Use of Drones in Florida**

Section 934.50(4)(k), F.S., authorizes the use of drones by a non-law enforcement employee of the Fish and Wildlife Conservation Commission or of the Florida Forest Service for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

### **Weaponized Drones Prohibited in Florida**

In Florida, s. 330.411, F.S., prohibits a person from possessing or operating an unmanned aircraft or unmanned aircraft system as defined in s. 330.41, F.S., with an attached weapon, firearm, explosive, destructive device, or ammunition as defined in s. 790.001, F.S.<sup>27</sup> North Dakota is the only state that allows law enforcement agencies to utilize weaponized drones. The weapons are limited to the non-lethal variety such as tear gas, rubber bullets, beanbags, pepper spray, and tasers.<sup>28</sup>

### **Use of Drones for Law Enforcement Investigations**

Several jurisdictions outside Florida, including the Massachusetts State Police and the Lake County Police in Illinois, are reported to be using drones to assist in more efficient and timely traffic crash investigations.<sup>29</sup> The North Carolina Department of Transportation and North Carolina State Highway Patrol demonstrated in a research project that some advantages to using drones in traffic crash investigations include faster processing and clearing of the scene and opening the road to traffic flow more quickly than traditional evidence-gathering methods.<sup>30</sup>

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<sup>26</sup> Section 934.50(4)(a)-(c), F.S. There are additional exceptions to the prohibition on the use of drones that are not law enforcement agency related. These exceptions can be found in s. 934.50(4)(d)-(j), F.S.

<sup>27</sup> Section 330.41(2)(c), F.S., defines an unmanned aircraft system as a drone and its associated elements, including communication links and the components used to control the drone which are required for the pilot in command to operate the drone safely and efficiently. Section 330.41(2)(b), F.S., specifies that drone has the same meaning as s. 934.50(2), F.S.

<sup>28</sup> North Dakota House Bill 1328 (2015), available at <https://www.legis.nd.gov/assembly/64-2015/documents/15-0259-05000.pdf?20150501154934> (last viewed January 8, 2021).

<sup>29</sup> *How drones help Lake County police investigate crashes, get roads open faster*, Daily Herald, May 7, 2017, available at <http://www.dailyherald.com/news/20170506/how-drones-help-lake-county-police-investigate-crashes-get-roads-open-faster> (last viewed January 8, 2021).

<sup>30</sup> “Research shows that documenting a collision scene using photogrammetry and UAS can be advantageous, especially in terms of speed and cost. With a combination of advanced imaging software and the latest UAS technology, we find that the North Carolina State Highway Patrol (NCSHP) can rapidly map collision scenes and simultaneously gather more information than legacy technologies. Indeed, large scenes can be documented in less than 30 minutes.” *Collision Scene Reconstruction & Investigation Using Unmanned Aircraft Systems*, Division of Aviation, UAS Program Office, N.C. Department of Transportation, August 2017, available at <https://www.ncdot.gov/divisions/aviation/Documents/ncshp-uas-mapping-study.pdf> (last viewed January 8, 2021).

In addition to quickly and efficiently clearing traffic crash scenes, drone technology has enhanced crime scene documentation using a process called orthomosaic photography that can recreate a crime scene in 3-D.<sup>31</sup>

Drones can also be used by law enforcement to more efficiently do jobs such as searching for evidence.<sup>32</sup> For example, the San Bernardino Police Department used a drone to successfully search a large field for a gun thrown by a suspect who was being pursued.<sup>33</sup> The San Bernardino police chief emphasized the cost benefit in deploying a drone versus assembling a team to look for the gun in that situation.<sup>34</sup>

### **Tactical Uses for Drones**

Some have suggested that drones could be used to gain a tactical advantage in active shooter situations like that which occurred in Las Vegas in 2017 at the outdoor music festival at which 58 people were killed and more than 500 injured.<sup>35</sup> For example, Brian Levin, director of The Center for the Study of Hate and Extremism at California State University-San Bernardino opines that a “drone could have provided real-time intelligence and surveillance to what’s going on” during the Las Vegas incident.<sup>36</sup> In an article written for the International Journal of Aviation, Aeronautics, and Aerospace, Ryan Wallace and Jon Loffi, analyzed the law enforcement response to the Las Vegas shooting, concluding that had a drone been accessible to the Las Vegas Police it may have provided life-saving reconnaissance and shooter distraction.<sup>37</sup>

### **Fire Department Use of Drones**

According to an October 2018 news article, fire departments use UAVs for reconnaissance of wildfires and motor vehicle accident scenes, hazmat incidents, and hot spot identification at structure fires. In addition to the reconnaissance function and hot spot identification, additional uses for UAVs include:

- Search and rescue, even in urban settings;

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<sup>31</sup> Mesa County, Colorado, Sheriff’s Office unmanned aircraft program director, Ben Miller, envisions the 3-D crime scene preservation technique as a real aid in cold cases. The Huffington Post, Michelle Fredrickson, *Drones Add a New Dimension to Crime Scene Investigations*, October 24, 2014 (updated December 6, 2017), available at [https://www.huffingtonpost.com/pro-journo/drones-add-a-new-dimensio\\_b\\_6033392.html](https://www.huffingtonpost.com/pro-journo/drones-add-a-new-dimensio_b_6033392.html) (last viewed January 8, 2021).

<sup>32</sup> Patti Blake, Tom McLaughlin, The News Herald, *Several Florida Police Departments Utilizing Drone Technology*, December 17, 2019, available at <https://www.governing.com/news/headlines/Several-Florida-Police-Departments-Utilizing-Drone-Technology.html> (last viewed January 8, 2021).

<sup>33</sup> National Police Foundation, Jarrod Burguan, San Bernardino Police Chief, *Drones help augment a police department’s capabilities to fight crime*, available at <https://www.policefoundation.org/drones-help-augment-a-police-departments-capabilities-to-fight-crime/> (last viewed January 8, 2021).

<sup>34</sup> *Id.*

<sup>35</sup> Las Vegas Review-Journal, Nicole Raz, *Las Vegas police drones will monitor New Year’s Eve crowds*, December 27, 2017, available at <https://www.reviewjournal.com/entertainment/new-years-eve-in-vegas/las-vegas-police-drones-will-monitor-new-years-eve-crowds/> (last viewed January 8, 2021).

<sup>36</sup> *Id.* See also Wallace, Ryan and Loffi, Jon, *How Law Enforcement Unmanned Aircraft Systems (UAS) Could Improve Tactical Response to Active Shooter Situations: The Case of the 2017 Las Vegas Shooting*, Vol. 4, Article 7, International Journal of Aviation, Aeronautics, and Aerospace, October 9, 2017, available at <https://commons.erau.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1198&context=ijaa> (last viewed January 8, 2021).

<sup>37</sup> *Id.*

- Preplanning with aerial photos and video identifying water supply sources, utility shutoffs, and apparatus location planning;
- Winter and ice rescue; and
- Disaster assessment and post-disaster reconnaissance after weather events such as floods or tornados.<sup>38</sup>

The Mesa Fire and Medical Department in Mesa, Arizona, has also used drones in a variety of capacities, including:

- Gaining a 360-degree perspective on damaged structures;
- Surveying buildings to provide hazard assessments for property owners;
- Water rescue operations and flood damage assessment;
- Assisting with a search for a missing kindergarten teacher; and
- Demonstrating how drones outfitted with special meters and cameras to identify lethal chemicals in hazmat situations can help keep first responders safe.<sup>39</sup>

In Brevard County, Fire Rescue personnel have been trained to test for the FAA drone pilot certification<sup>40</sup> so they can conduct search-and-rescue operations, ocean rescue, map brush fires, and examine burning buildings to identify safe entry points for firefighters using drones.<sup>41</sup>

### Other Governmental Functions for Drones

Drones are becoming useful for governmental functions outside policing. For example, the Daytona Beach Police Department utilized its drones to document the state of the city's infrastructure immediately before and after Hurricane Irma came through in September 2017 to provide the Federal Emergency Management Agency with the proof necessary to obtain funding for rebuilding. Additionally, the department was able to aid first responders in navigating the fastest and safest routes to those in need of aid by providing a birds-eye view to downed power lines, unstable infrastructure, and blocked roads in the wake of the storm.<sup>42</sup>

<sup>38</sup> Fire Apparatus & Emergency Equipment, Alan M. Petrillo, *Fire Department Drones Serve a Variety of Needs on Incident Scenes*, October 1, 2018, available at <https://www.fireapparatusmagazine.com/articles/print/volume-23/issue-10/features/fire-department-drones-serve-a-variety-of-needs-on-incident-scenes.html> (last viewed January 8, 2021).

<sup>39</sup> East Valley Tribune, Wayne Schutsky, *Ariz. Fire, EMS Leads the Way with Drone Use*, December 20, 2017, available at <https://www.ems1.com/ems-products/technology/articles/370989048-Ariz-fire-EMS-leads-the-way-with-drone-use/> (last viewed January 8, 2021).

<sup>40</sup> Federal Aviation Administration, *Become a Drone Pilot*, August 4, 2020, available at [https://www.faa.gov/uas/commercial\\_operators/become\\_a\\_drone\\_pilot/](https://www.faa.gov/uas/commercial_operators/become_a_drone_pilot/) (last viewed January 8, 2021).

<sup>41</sup> Florida Today, Rick Neale, *Florida Tech drone training takes flight for Brevard County firefighters, lifeguards*, November 30, 2018, available at <https://www.floridatoday.com/story/news/2018/11/30/florida-tech-drone-training-takes-flight-brevard-firefighters/2140086002/> (last viewed January 8, 2021).

<sup>42</sup> PoliceOne.com, Jinnie Chua, *Why drones should be part of every PD's disaster response plan*, February 22, 2018, available at <https://www.policeone.com/2018-guide-drones/articles/471474006-Why-drones-should-be-part-of-every-PDs-disaster-response-plan/> (last viewed January 8, 2021); for additional ways the Daytona Beach Police Department has utilized its drones see Stephen Rice, Forbes.com, *10 Ways That Police Use Drones To Protect And Serve*, October 7, 2019, available at <https://www.forbes.com/sites/stephenrice1/2019/10/07/10-ways-that-police-use-drones-to-protect-and-serve/?sh=5a1b31d96580> (last viewed January 8, 2021); and Ginger Pinholster, Fox News 35, Orlando, *Eyes in the Sky and Embry-Riddle Training Help Police End Hotel Standoff*, September 27, 2019, available at <https://news.erau.edu/headlines/eyes-in-the-sky-and-embry-riddle-training-help-police-end-hotel-standoff> (last viewed January 8, 2021).

### III. Effect of Proposed Changes:

The bill adds exceptions to the prohibitions of the use of a drone. Specifically, the bill allows law enforcement agencies to use drones to:

- Assist a law enforcement agency with traffic management, except that the agency may not issue a traffic infraction citation based on images or video captured by a drone; and
- Facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.

Additionally, the bill authorizes the use of a drone by:

- A state agency or political subdivision for:
  - The assessment of damage due to a flood, wildfire, or any other natural disaster; or
  - Vegetation or wildlife management on publicly owned land or water.<sup>43</sup>
- Certified fire department personnel to perform tasks within the scope and practice authorized under their certifications.<sup>44</sup>

The terms law enforcement agency, state agency, and political subdivision as used in s. 934.50, F.S., are currently defined in s. 934.50(2)(d), F.S., and s. 934.50(3)(b), F.S., (by cross-reference to s. 11.45, F.S.).

The bill reenacts s. 330.41(4)(c), F.S., for the purpose of incorporating the amendments made to s. 934.50, F.S.

The bill is effective July 1, 2020.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>43</sup> There does not seem to be a singular definition in the Florida Statutes for the term publicly owned land. For example, in s. 317.0003(8), F.S., public lands is defined as lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal government entity. In s. 375.312(2), F.S., public lands means any lands in the state which are owned by, leased by, or otherwise assigned to the state or any of its agencies and which are used by the general public for recreational purposes. There is no definition of public waters appearing in the Florida Statutes although there is a detailed definition of "waters" found in s. 403.031(13), F.S.

<sup>44</sup> There does not seem to be a definition for the scope and practice authorized for fire department personnel under their certification in the Florida Statutes. However, s. 633.408, F.S., contains firefighter and volunteer firefighter training certification requirements, and R. 69A-37.055, F.A.C., contains curriculum requirements for training firefighter recruits or firefighters.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:****Privacy**

Although it is generally understood that a person does not currently have a reasonable expectation of privacy under the circumstances set forth in the bill, with the evolution of technology as it relates to intrusion into a person's privacy interests, the law applying the Fourth Amendment to the U.S. Constitution, too, may evolve.<sup>45</sup>

**Preemption**

The regulation of the national airspace and the aircraft that occupy it is a federal matter.<sup>46</sup> The FAA Chief Counsel issued a document in 2015 about state and local regulation of drones in which he said that state and local restrictions affecting UAS operations should be consistent with the extensive federal statutory and regulatory framework in order to “ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions.”<sup>47</sup> However, given the Chief Counsel's acknowledgement that “laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation”<sup>48</sup> it appears that the bill would not be an encroachment into an area exclusively regulated by the federal government.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

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<sup>45</sup> The Fourth Amendment to the U.S. Constitution protects persons from unreasonable searches and seizures by the government. U.S. Const. amend. IV. *See Katz v. United States*, 389 U.S. 347 (1967) finding there is no reasonable expectation of privacy in the public view. *See also Carpenter v. United States*, 138 S.Ct. 2206 (2018) a recent Fourth Amendment case finding a reasonable expectation of privacy in historical cell phone location records.

<sup>46</sup> Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. ss. 40103, 44502, and 44701-44735.

<sup>47</sup> FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, December 17, 2015, available at [https://www.faa.gov/uas/resources/policy\\_library/media/UAS\\_Fact\\_Sheet\\_Final.pdf](https://www.faa.gov/uas/resources/policy_library/media/UAS_Fact_Sheet_Final.pdf) (last viewed January 8, 2021).

<sup>48</sup> *Id.*, citing *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002).

**C. Government Sector Impact:**

The bill allows for new uses for drones by government agencies under certain circumstances that could result in a cost savings for such agencies. However, nothing in the bill requires law enforcement agencies, fire departments, state agencies, or political subdivisions to spend resources to acquire drones or train personnel to use them.

The Florida Department of Law Enforcement reports that it does not expect a fiscal impact from this bill.<sup>49</sup>

The Florida Department of Agriculture and Consumer Services is unable to estimate a fiscal impact, if any, on the department.<sup>50</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 934.50 of the Florida Statutes.

The bill reenacts section 330.41(4)(c) of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on January 26, 2021:**

The committee substitute removes the exception that allowed a law enforcement agency to use a drone to provide an aerial perspective of a crowd of 50 people or more.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>49</sup> Florida Department of Law Enforcement 2021 Legislative Bill Analysis, SB 44, January 8, 2021 (on file with the Senate Criminal Justice Committee).

<sup>50</sup> Florida Department of Agriculture and Consumer Services 2021 Legislative Bill Analysis, SB 44, January 12, 2021 (on file with the Senate Criminal Justice Committee).



516022

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
	.	
	.	
	.	

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The Committee on Criminal Justice (Wright) recommended the following:

**Senate Amendment (with directory amendment)**

Delete lines 38 - 50

and insert:

(d) To assist a law enforcement agency with traffic management; however, a law enforcement agency acting under this paragraph may not issue a traffic infraction citation based on images or video captured by a drone.

(e) To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.



516022

11           (f) By a state agency or political subdivision for the  
12 assessment of damage due to a flood, a wildfire, or any other  
13 natural disaster or for vegetation or wildlife management on  
14 publicly owned land or water.

15           (g) By certified fire department personnel to perform tasks  
16

17 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

18 And the directory clause is amended as follows:

19           Delete lines 15 - 16

20 and insert:

21 paragraphs (i) through (o), respectively, new paragraphs (d)  
22 through (g) are added to that subsection, and subsection (3) of

By Senator Wright

14-00249A-21

202144\_\_

A bill to be entitled

An act relating to drones; amending s. 934.50, F.S.; expanding the authorized uses of drones by law enforcement agencies, by a state agency or political subdivision, or by certified fire department personnel for specified purposes; reenacting s. 330.41(4)(c), F.S., relating to unmanned aircraft systems, to incorporate the amendment made to s. 934.50, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present paragraphs (d) through (k) of subsection (4) of section 934.50, Florida Statutes, are redesignated as paragraphs (i) through (p), respectively, new paragraphs (d) through (h) are added to that subsection, and subsection (3) of that section is amended, to read:

934.50 Searches and seizure using a drone.—

(3) PROHIBITED USE OF DRONES.—Except as provided in subsection (4):

(a) A law enforcement agency may not use a drone to gather evidence or other information.

(b) A person, a state agency, or a political subdivision as defined in s. 11.45 may not use a drone equipped with an imaging device to record an image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct surveillance on the individual or property captured in the image in violation of such person's reasonable expectation of privacy without his or

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

14-00249A-21

202144\_\_

her written consent. For purposes of this section, a person is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she is not observable by persons located at ground level in a place where they have a legal right to be, regardless of whether he or she is observable from the air with the use of a drone.

(4) EXCEPTIONS.—This section does not prohibit the use of a drone:

(d) To provide a law enforcement agency with an aerial perspective of a crowd of 50 people or more.

(e) To assist a law enforcement agency with traffic management; however, a law enforcement agency acting under this paragraph may not issue a traffic infraction citation based on images or video captured by a drone.

(f) To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.

(g) By a state agency or political subdivision for the assessment of damage due to a flood, a wildfire, or any other natural disaster or for vegetation or wildlife management on publicly owned land or water.

(h) By certified fire department personnel to perform tasks within the scope and practice authorized under their certifications.

Section 2. For the purpose of incorporating the amendment made by this act to section 934.50, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 330.41, Florida Statutes, is reenacted to read:

330.41 Unmanned Aircraft Systems Act.—

(4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.—

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

14-00249A-21

202144\_\_

59 (c) This subsection does not apply to actions identified in  
60 paragraph (a) which are committed by:

61 1. A federal, state, or other governmental entity, or a  
62 person under contract or otherwise acting under the direction of  
63 a federal, state, or other governmental entity.

64 2. A law enforcement agency that is in compliance with s.  
65 934.50, or a person under contract with or otherwise acting  
66 under the direction of such law enforcement agency.

67 3. An owner, operator, or occupant of the critical  
68 infrastructure facility, or a person who has prior written  
69 consent of such owner, operator, or occupant.

70 Section 3. This act shall take effect July 1, 2021.

## Cellon, Connie

---

**From:** Matt Dunagan <mdunagan@flsheriffs.org>  
**Sent:** Friday, January 8, 2021 4:24 PM  
**To:** Cellon, Connie; Amy Mercer  
**Subject:** RE: drone count time!

### Sheriff Drone Use – January 2021

- 1 Bay County Sheriff's Office
- 2 Bradford County Sheriff's Office
- 3 Brevard County Sheriff's Office
- 4 Broward County Sheriff's Office
- 5 Charlotte County Sheriff's Office
- 6 Clay County Sheriff's Office
- 7 Collier County Sheriff's Office
- 8 Columbia County Sheriff's Office
- 9 Duval County Sheriff's Office
- 10 Franklin County Sheriff's Office
- 11 Gulf County Sheriff's Office
- 12 Hardee County Sheriff's Office
- 13 Hernando County Sheriff's Office
- 14 Highlands County Sheriff's Office
- 15 Lee County Sheriff's Office
- 16 Leon County Sheriff's Office (putting together a team now)
- 17 Manatee County Sheriff's Office
- 18 Marion County Sheriff's Office
- 19 Miami Dade Police Department
- 20 Monroe County Sheriff's Office
- 21 Okeechobee County Sheriff's Office
- 22 Orange County Sheriff's Office
- 23 Pasco Sheriff's Office
- 24 Pinellas County Sheriff's Office
- 25 Polk County Sheriff's Office
- 26 St. Lucie County Sheriff's Office
- 27 Sumter County Sheriff's Office
- 28 Volusia County Sheriff's Office
- 29 Walton County Sheriff's Office
- 30 Washington County Sheriff's Office

*Matt Dunagan, Deputy Executive Director of Operations*

(850) 877-2165 x. 5807 (office)

(850) 274-3599 (cell)

FLORIDA SHERIFFS ASSOCIATION | Protecting, Leading & Uniting Since 1893.

**From:** Cellon, Connie <CELLON.CONNIE@flsenate.gov>

**Sent:** Friday, January 8, 2021 4:06 PM

**To:** Amy Mercer <amercer@fpca.com>; Matt Dunagan <mdunagan@flsheriffs.org>

**Subject:** drone count time!

CAUTION: This email originated from outside of FSA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We have SB 44 (Drones) on our horizon. Please advise how many of your departments/offices have drones. It sure would help!

Happy New Year!

Connie Cellon  
Senate Criminal Justice  
850-487-5192

Agency Name	Does your agency have drones?	If you do not currently have a drones, do you plan on obtaining them in the near future?
Riviera Beach Police Department	Yes	
Melbourne Police Department	Yes	
Miami Beach Police Department	Yes	
Pembroke Pines Police Department	Yes	
Fort Lauderdale Police Department	Yes	
Coral Springs Police Department	Yes	
Kissimmee Police Department	Yes	
Fort Walton Beach	Yes	
Lynn Haven Police	Yes	
Plant City Police Department	Yes	
Boca Raton Police Department	Yes	
Wauchula Police Department	Yes	
Delray Beach Police Department	Yes	
Ocala Police Department	Yes	
Edgewater Police Department	Yes	
Fort Pierce Police Department	Yes	
Coral Gables Police	Yes	
Florida Highway Patrol	Yes	
Apopka Police Department	Yes	
Panama City Beach Police Department	Yes	
Springfield Police Department	Yes	
Palmetto Police Department	Yes	
Stuart Police Department	Yes	Yes
Palm Bay Police Department	Yes	
Groveland Police Department	Yes	
Davie Police Department	Yes	
Riviera Beach Police Department	Yes	
South Miami Police Department	Yes	
Indian Shores	Yes	We have a citizen Volunteer that provides Drone Services to us when needed.

Fort Myers Police Department	Yes	
University of South Florida Police Department	Yes	
North Palm Beach Police Department	Yes	
Rockledge Police Department	Yes	
Juno Beach Police Department	Yes	N/A
Hollywood Police Department	Yes	
North Port Police Department	Yes	
Daytona Beach Shores Department of Public Safety	Yes	
Palm Beach Police Department	Yes	
Palm Beach Gardens Police Department	Yes	
Temple Terrace PD	Yes	
South Daytona Police Department	Yes	
Port St. Lucie Police Department	Yes	
Clearwater Police Department	Yes	
Hollywood PD	Yes	
New Smyrna Beach Police Department	Yes	
CSX Railroad Police	Yes	
Vero Beach Police Department	Yes	
Boynton Beach Police Department	Yes	I fully support expanding the allowed uses of drones!
Miami Shores Police Department	Yes	
Treasure Island Police Department	Yes	
Ocoee Police Department	Yes	
Fernandina Beach Police Department	Yes	
Aventura Police Department	Yes	
Melbourne Beach Police Department	Yes	
St. Petersburg Police Department	Yes	
Winter Springs Police Dept.	Yes	
Orange County Sheriff's Office	Yes	
Holly Hill PD	Yes	
Flagler Beach Police DEpartment	No	Yes and we currently have the ability to utilize a drone that was purchased this year by our City's Fire Department.

Bay Harbor Islands Police Department	No	
Lake City Police Department	No	Not in the near future
Valparaiso Police Department	No	No
City of Bowling Green Police Department	No	
Lauderhill Police Department	No	Yes, we are planning on obtaining two (2) drones.
Venice PD	No	no
Palm Springs Police Department	No	Yes, this year
Florida School for the Deaf and the Blind Campus Police	No	No
Manalapan Police Department	No	no
Williston Police Department	No	No
Altamonte Springs Police Department	No	Undecided
Marianna Police Department	No	We are looking into some options at this time.
Lady Lake Police Department	No	It is a possibility.
Gretna Police Department	No	No
Lake Placid Police Department	No	
Melbourne Village PD	No	no
Florida Atlantic University Police Department	No	Yes
Belleview Police Department	No	No
Lake Hamilton Police Department	No	yes
Lake Mary PD	No	
Key Colony Beach Police Department	No	Yes
Indialantic Police Department	No	
Windermere Police Dept.	No	yes
Indian Harbour Beach	No	Yes
Florida International University Police Department	No	Yes
Jacksonville Aviation Authority Police Department	No	No. Not at this time
Clermont Police Department	No	Yes
City Of West Miami police Department	No	No
Florida Polytechnic University Police	No	no, we utilize drones from the Polk County Sheriff's Office and Lakeland Police Department

Perry Police Department	No	we are planning on using drines in the near future. We are in the process of training several officers to take the part 107 certification exam.
Largo Police Department	No	No
Eustis Police	No	We are looking into drones.
St. Augustine Beach Police Department	No	yes
Holmes Beach Police	No	unsure
New College of Florida Police Department	No	No
Panama City Airport Police	No	No
Marco Island Police Department	No	Maybe
Port Richey Police Department	No	Yes
Fellsmere Police Department	No	yes
Clay County District Schools Police Department	No	not at this time
Ormond Beach Police Department	No	yes, we are actually in the process right now.
Belle Isle Police Department	No	No
Jacksonville Beach Police Department	No	No
Florida School for the Deaf and the Blind Campus Police	No	No, if it was required for a natural disaster or life saving purpose, the school itself has its own drone that would be utilized in these situations.
Tampa International Airport Police Department	No	We would like to utilize them with the APD. The Aiport Operations Division (no LE related) has plans to acquire
Oakland Police Department	No	No
Bonifay Police Department	No	Yes
Fruitland Park Police Department	No	No
Sanford Airport Police Department	No	No
Jackson County School District Police Department	No	No, there are no plans in the future.
City of Bunnell Police Dept.	No	No funding
Indian Creek Village	No	Potentially

Bay District Schools Police	No	
Zephyrhills Police Department	No	Yes
Stetson University Department of Public Safety	No	no
Orange City Police Department	No	Yes
Orange Park Police Department	No	Yes
Santa Fe College Police Department	No	No
UCF Police Department	No	Contingent on funding and legislation. We would like for it to be an option, but under current state statute it is too limiting to invest in a program
Lee County Port Authority	No	We are considering drones if some of the restrictions are reconsidered.
Ocean Ridge Police Department	No	We are planning to develop a program for then
Sanford	No	
Florida Gulf Coast University PD	No	No. The University has drones, but not specifically the Police Department.
Blountstown Police Department	No	Not Currently
Sebring Police Department	No	Yes, in 12-18 months. Yes--if legislation is changed to allow for expanded use.
Gulfport Police Department	No	
Edgewood	No	No
Golden Beach Police Dept.	No	
Cocoa Beach Police Department	No	Yes
Pensacola State College Police Department	No	Not at this time
UNFPD	No	no
Howey in the Hills Police Department	No	
Punta Gorda Police Department	No	Yes



# 2021 FDLE LEGISLATIVE BILL ANALYSIS



<b>BILL INFORMATION</b>	
<b>BILL NUMBER:</b>	SB 44
<b>BILL TITLE:</b>	Drones
<b>BILL SPONSOR:</b>	Senator Wright
<b>EFFECTIVE DATE:</b>	July 1, 2021

<b>COMMITTEES OF REFERENCE</b>
1)
2)
3)
4)
5)

<b>CURRENT COMMITTEE</b>

<b>SIMILAR BILLS</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>PREVIOUS LEGISLATION</b>	
<b>BILL NUMBER:</b>	SB520
<b>SPONSOR:</b>	Gruters
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	Died in Rules

<b>IDENTICAL BILLS</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
No

<b>BILL ANALYSIS INFORMATION</b>	
<b>DATE OF ANALYSIS:</b>	January 8, 2021
<b>LEAD AGENCY ANALYST:</b>	Lori Mizell
<b>ADDITIONAL ANALYST(S):</b>	Grant Geyer, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Jeff Dambly
<b>FISCAL ANALYST:</b>	Cynthia Barr

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Expanding the authorized uses of drones by law enforcement agencies, by a state agency or political subdivision, or by certified fire department personnel for specified purposes, etc.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Section 934.50, F.S, prohibits the use of drones by law enforcement agencies to gather evidence or other information unless specified exceptions are met; a person, a state agency, or a political subdivision as defined may not use a drone equipped with an imaging device to record an image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property with the intent to conduct surveillance on the individual or property captured in the image in violation of such person's reasonable expectation of privacy without his or her written consent.
2. **EFFECT OF THE BILL:** Amends Section 934.50(3), F.S., prohibiting a law enforcement agency's use of a drone to gather evidence or other information, except as provided in subsection (4). Amends Section 934.50(4), F.S.:
  - To provide a law enforcement agency with an aerial perspective of a crowd of 50 people or more.
  - To assist a law enforcement agency with traffic management; however, a law enforcement agency acting under this paragraph may not issue a traffic infraction citation based on images or video captured by a drone.
  - To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.
  - By a state agency or political subdivision for the assessment of damage due to a flood, wildfire, or natural disaster or for vegetation or wildlife management on publicly owned land or water.
  - By certified fire department personnel to perform tasks within the scope and practice authorized under their certifications.

### 3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y N

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number:	

### 6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y N

Board:	
--------	--

Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y  N**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y  N**

Does the bill increase taxes, fees or fines?	
--	--

Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

**TECHNOLOGY IMPACT**

**1. DOES THE LEGISLATION IMPACT THE AGENCY’S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y  N**

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

**FEDERAL IMPACT**

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

**LEGAL - GENERAL COUNSEL’S OFFICE REVIEW**

Issues/concerns/comments and recommended action:	
--	--

**ADDITIONAL COMMENTS**

Of note, the number of people in a crowd does not (by itself) determine particular law enforcement actions. Respectfully request amending lines 38-39: “To provide a law enforcement agency with an aerial perspective of a crowd for public safety purposes.”



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
COMMISSIONER NICOLE "NIKKI" FRIED

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January 12, 2021

**Agency Affected:** Dept. of Agriculture and Consumer Services

**Telephone:** 850-617-7000

**Agency Contact:** Emily Buckley, Legislative Affairs Director

**Telephone:** 850-617-7700

---

**Senate Bill Number:** 44

**Senate Bill Sponsor:** Senator Wright

**Bill Title:** Drones

**Effective Date:** July 1, 2021

**Similar Bill(s):** Yes  No

**Similar Bill(s):** SB 518: Drones by Senator Diaz

**Identical Bill:** Yes  No

**Identical Bill:**

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**1. SUMMARY**

An act relating to drones; amending s. 934.50, F.S.; expanding the authorized uses of drones by law enforcement agencies, by a state agency or political subdivision, or by certified fire department personnel for specified purposes; reenacting s. 330.41(4)(c), F.S., relating to unmanned aircraft systems, to incorporate the amendment made to s. 934.50, F.S.; providing an effective date.

**2. PRESENT SITUATION**

Section 934.50, F.S., restricts the use of drones by individuals and government entities to conduct surveillance. The law recognizes that a real property owner is presumed to have a reasonable expectation of privacy on his or her privately owned real property if he or she cannot be seen by persons at ground level who are in a place they have a legal right to be. Thus, law enforcement may not use a drone to gather evidence or other information, with certain exceptions. When law enforcement has reasonable suspicion that swift action is needed, drone use is permitted to:

- Prevent imminent danger to life or serious damage to property;
- Forestall the imminent escape of a suspect or the destruction of evidence; or

- Achieve certain purposes such as facilitating the search for a missing person.

Other exceptions authorizing drone use include:

- Countering terrorist attacks;
- Effecting search warrants, authorized by a judge;
- Lawful business activities licensed by the state, with certain exceptions;
- Assessing property for ad valorem taxation purposes;
- Capturing images of utilities for specified purposes;
- Aerial mapping;
- Cargo delivery;
- Capturing images necessary for drone navigation;
- Routing, siting, installing, maintaining, or inspecting communications service facilities; and
- Non-law enforcement employee of the Fish and Wildlife Conservation Commission or the Florida Forest Service for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

### **3. EFFECT OF PROPOSED CHANGES**

SB 44 proposes amendments to s. 934.50, F.S.: “(f) To facilitate a law enforcement agency’s collection of evidence at a crime scene or traffic crash scene.” This change would allow the use of lower cost alternatives to manned aircraft to document crimes such as arson or timber theft.

“(g) By a state agency or political subdivision for the assessment of damage due to a flood, a wildfire, or any other natural disaster or for vegetation or wildlife management on publicly owned land or water.” This change clarifies drone use for damage assessment of wildfire in addition to current use for suppression and mitigation of wildfire, and drone use for management on both public land and water in addition to current use for management and eradication of invasive species on public lands. It would allow the use of lower cost alternatives to manned aircraft to assess damage and deploy resources more quickly in response to a disaster. Drones would also be available for use to assess damage in situations that are too hazardous for human observation.

### **4. FISCAL IMPACT ON FDACS**

Currently, the Florida Department of Agriculture and Consumer Services is unable to estimate a fiscal impact, if any, the proposed bill may have on the department.

	(FY 21-22) Amount/ FTE	(FY 22-23) Amount/ FTE	(FY 23-24) Amount/ FTE
<b>A. Revenues</b>			
Recurring			
Non-Recurring			
TOTAL REVENUES	N/A	N/A	N/A
<b>B. Expenditures</b>			
Recurring			
Non-Recurring			
TOTAL EXPENDITURES	N/A	N/A	N/A
<b>C. NET TOTAL</b>	N/A	N/A	N/A

**5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(S)?**

There may be a reduced cost to information gathering using drones when compared to traditional aviation options using helicopters or airplanes.

**6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?**

Unknown.

**7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? (If yes, please explain the impact in A and/or B below)**

No.

**A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.**

**B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.**

**C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?**

a. Yes:  No:

b. If yes please explain:

**8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?**

- a. Yes:  No:
- b. If yes please explain:

**9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?**

- a. Yes:  No:
- b. If yes please explain:

**LEGAL ISSUES**

**10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations? No.**

**11. Does the proposed bill raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts) that impacts the department?** Unknown. Expanded use of drones to facilitate law enforcement collection of evidence in (f) or land and water management in (g) may raise constitutional privacy issues, however the proposed uses are designed to achieve government objectives related to crime scenes and more efficient damage assessment and management of publicly owned land and water.

**12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties? No.**

**COMMENTS:**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2021

*Meeting Date*

44

*Bill Number (if applicable)*

Topic Drones

*Amendment Barcode (if applicable)*

Name Jeff Pearson

Job Title Chief of Police

Address 510 Cinnamon Dr

Phone (321) 773-4400

*Street*

Satellite Beach

FL

32937

Email jpearson@satellitebeach.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

# APPEARANCE RECORD

1/26/21

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 44

Bill Number (if applicable)

Topic Drones

Amendment Barcode (if applicable)

Name Angela Drzewiecki (Drez-wick-ee)

Job Title Lobbyist

Address 301 South Bronough Street

Phone 850-681-7383

Street

Tallahassee

FL

32308

City

State

Zip

Email angela@psmfl.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/26/21

Meeting Date

SB 44

Bill Number (if applicable)

Topic Drones

Amendment Barcode (if applicable)

Name Ray Coleburn

Job Title Executive Director

Address 221 Pinewood Drive

Street

Phone 850.900.5180

Tallahassee

FL

32303

Email ray@ffca.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Fire Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26-2021

Meeting Date

SB 0044

Bill Number (if applicable)

Topic DRONES

Amendment Barcode (if applicable)

Name ANTORRIO WRIGHT

Job Title CAPTAIN

Address 2500 W COLONIAL DR

Phone 407 259-7448

Street

ORLANDO, FL

City

State

32804

Zip

Email antorrio.wright@ocfl.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

**SENATOR TOM A. WRIGHT**  
14th District

January 12, 2021

The Honorable Jason W. B. Pizzo  
405, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 44 – Drones

Dear Chair Pizzo:

Senate Bill 44, relating to Drones has been referred to the Committee on Criminal Justice. I am requesting your consideration on placing SB 44 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Lauren Jones, Staff Director of the Committee on Criminal Justice  
Sue Arnold, Administrative Assistant of the Committee on Criminal Justice

### REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 144

INTRODUCER: Senator Brandes

SUBJECT: Searches of Cellular Phones and Other Electronic Devices

DATE: January 25, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	<b>Favorable</b>
2.			JU	
3.			RC	

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**I. Summary:**

SB 144 amends chs. 933 and 934, F.S., relating to search warrants and the security of communications, to address privacy issues related to the use of communication technology and the contents of stored electronic communications.

The bill amends ch. 933, F.S., by:

- Codifying the Constitutional provision that extends the security against unreasonable searches or seizures to the interception of private communications by any means; and
- Expanding the reasons for law enforcement to obtain a search warrant to include the content within certain communication devices.

The bill amends ch. 934, F.S., by:

- Providing legislative intent;
- Defining the terms “historical location data,” “microphone-enabled household device,” “mobile tracking device,” “real-time location tracking,” and “portable electronic communication device”;
- Amending the definition of oral communication to include the use of a microphone-enabled household device;
- Amending the definition of electronic communication, adding the terms “communication tower” and “satellite” to the ways in which the transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature can be transmitted; removing the exception of “any communication from an electronic or mechanical device which permits the tracking of the movement of a person or an object” from the definition;
- Requiring a search warrant for the interception of wire, oral, or electronic communications, the use of a tracking device, or historical location data;
- Setting forth time constraints under which a tracking device must be used and when notice must be provided to the person tracked;

- Allowing for a delayed application for a search warrant when emergency tracking is necessary due to emergency circumstances; and
- Clarifying that certain conduct relating to access to stored communications is not a criminal offense.

The bill is effective July 1, 2021.

## II. Present Situation:

The Fourth Amendment of the United States Constitution guarantees:

- The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated; and
- No warrants shall issue without probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.<sup>1</sup>

Under Fourth Amendment jurisprudence, a search occurs whenever the government intrudes upon an area in which a person has a reasonable expectation of privacy, such as one's home.<sup>2</sup> A warrantless search is generally per se unreasonable,<sup>3</sup> unless an exception to the warrant requirement applies.<sup>4</sup>

The Florida Constitution similarly protects the people against unreasonable searches and seizures, and that right is construed in conformity with the Fourth Amendment of the U.S. Constitution.<sup>5</sup> The Florida Constitution also explicitly protects against the "unreasonable interception of private communications by any means."<sup>6</sup>

Both the Florida and federal constitutions require a search warrant to be supported by probable cause<sup>7</sup>, as established by oath or affirmation, and to particularly describe the place to be searched and the persons or things to be seized.<sup>8</sup>

Advancing technology has presented law enforcement with new means of investigation and surveillance, and the courts with new questions about the Fourth Amendment implications of this technology.<sup>9</sup>

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<sup>1</sup> U.S. CONST. AMEND. IV.

<sup>2</sup> *Katz v. United States*, 389 U.S. 347 (1967).

<sup>3</sup> *United States v. Harrison*, 689 F.3d 301, 306 (3d Cir. 2012).

<sup>4</sup> Examples of exceptions to the warrant requirement include exigent circumstances, searches of motor vehicles, and searches incident to arrest.

<sup>5</sup> FLA. CONST. art. I, s. 12.

<sup>6</sup> "No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained." *Id.*

<sup>7</sup> Probable cause is defined "in terms of facts and circumstances 'sufficient to warrant a prudent man in believing that the (suspect) had committed or was committing an offense'" *Gerstein v. Pugh*, 420 U.S. 103, 111-112 (1975), quoting *Beck v. Ohio*, 379 U.S. 89, 91 (1964).

<sup>8</sup> FLA. CONST. art. I, s. 12 and *supra*, n. 1.

<sup>9</sup> See *United States v. Jones*, 565 U.S. 400 (2012), where, in a 5-4 decision the Court found (in a narrow holding eschewing the "reasonable expectation of privacy" analysis most often used by the Court) that attaching a GPS real-time tracker on the suspect's vehicle for the purpose of tracking his whereabouts was a "trespass" upon his "effects" by the Government and therefore a warrant is required; *Smallwood v. State*, 113 So.3d 724, 741 (Fla. 2013), in which the Court, in what it called a

### Chapter 933, F.S., Search Warrants

Chapter 933, F.S., contains grounds related to when and why a search warrant may be issued to a law enforcement officer by a judge authorizing the search and seizure of evidence, and the procedures for executing the search warrant.<sup>10</sup>

The issuance of a search warrant is based upon probable cause therefore an application made under oath to a judge for a search warrant must “set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.”<sup>11</sup> The application must particularly describe the place to be searched and the person and thing to be seized.<sup>12</sup> If the judge finds that probable cause exists for the issuance of the search warrant, the judge must issue the search warrant.<sup>13</sup>

The grounds for the issuance of a search warrant include:

- When the property has been stolen or embezzled in violation of law;
- When any property has been used:
  - As a means to commit any crime;
  - In connection with gambling, gambling implements and appliances; or
  - In violation of s. 847.011, F.S., or other laws in reference to obscene prints and literature;
- When any property constitutes evidence relevant to proving that a felony has been committed;
- When any property is being held or possessed:
  - In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;
  - In violation of the fish and game laws;
  - In violation of the laws relative to food and drug; or
  - In violation of the laws relative to citrus disease pursuant to s. 581.184, F.S.; or
- When the laws in relation to cruelty to animals, as provided in ch. 828, F.S., have been or are violated in any particular building or place.<sup>14</sup>

A search warrant may also be issued for the search for and seizure of “any papers or documents used as a means of or in aid of the commission of any offense against the laws of the state.”<sup>15</sup> Section 933.18, F.S., limits the grounds for the issuance of a search warrant for a private

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decision “narrowly limited to the legal question and facts with which we were presented,” decided that for a search incident to arrest of the contents of a suspect’s cell phone, a warrant is required if there are no search incident to arrest justifications (officer protection or evidence preservation) for searching the contents; *Tracey v. State*, 152 So.3d 504 (Fla. 2014), a case involving real-time cell site location information, where the Court determined that the use of Tracey’s cell site location information to track him in real-time was a search for which probable cause was required; *Carpenter v. United States*, 138 S.Ct. 2206 (2018), found that obtaining a court order, rather than a warrant requiring a showing of probable cause, to access historical cell-site records implicates the Fourth Amendment therefore the Government will generally need a warrant.

<sup>10</sup> Sections 933.01- 933.19, F.S.

<sup>11</sup> Section 933.06, F.S.

<sup>12</sup> Section 933.04, F.S.

<sup>13</sup> Section 933.07, F.S.

<sup>14</sup> Section 933.02(1)-(5), F.S.

<sup>15</sup> Section 933.02, F.S.

dwelling to particular circumstances. No search warrant may be issued for a private dwelling under ch. 933, F.S., or any other law of the state unless:

- It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;
- Stolen or embezzled property is contained therein;
- It is being used to carry on gambling;
- It is being used to perpetrate frauds and swindles;
- The law relating to narcotics or drug abuse is being violated therein;
- A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;
- One or more of the following child abuse offenses is being committed there:
  - Interference with custody, in violation of s. 787.03, F.S.;
  - Commission of an unnatural and lascivious act with a child, in violation of s. 800.02, F.S.; or
  - Exposure of sexual organs to a child, in violation of s. 800.03, F.S.
- It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, boardinghouse, or lodginghouse;
- It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein;
- The laws in relation to cruelty to animals, as provided in ch. 828, F.S., have been or are being violated therein; or
- An instrumentality or means by which sexual cyberharassment has been committed in violation of s. 784.049, F.S., or evidence relevant to proving that sexual cyberharassment has been committed in violation of s. 784.049, F.S., is contained therein.<sup>16</sup>

After a law enforcement officer executes a search warrant, he or she must then bring the property seized and any person arrested in connection with the property before the judge or another court having jurisdiction of the offense.<sup>17</sup> A copy of the search warrant and an inventory of any property seized during the execution of the warrant must either be delivered to the person whose property is the subject of the search warrant, or may be left upon the premises if no one is there.<sup>18</sup> The search warrant and a sworn copy of any required inventory must be returned to the judge.<sup>19</sup>

### **Chapter 934, F.S., Security of Communications; Surveillance – Interception of Wire, Oral, or Electronic Communications**

Sections 934.03-934.09, F.S., govern the interception of wire, oral, or electronic communications. “Intercept” is defined as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.<sup>20</sup> These sections of law are patterned after federal law, and address the relationships

<sup>16</sup> Section 933.18, F.S.

<sup>17</sup> Section 933.07(1), F.S.

<sup>18</sup> Section 933.11, F.S.

<sup>19</sup> Section 933.12, F.S.

<sup>20</sup> Section 934.02(3), F.S.

between citizens, communications service providers, and investigative and law enforcement officers with respect to the obtainment and use of wire, oral, or electronic communications.<sup>21</sup>

Intentionally intercepting another person's wire, oral, or electronic communication is generally prohibited under s. 934.03, F.S. However, under circumstances where a communications service provider is served with a court order, the service provider is allowed to provide information, facilities, or technical assistance to a person who is authorized to intercept wire, oral, or electronic communications.<sup>22</sup> If a person's wire or oral communications are intercepted under circumstances not permitted in ss. 934.03-934.09, F.S., none of the content or evidence derived from the content may be used as evidence.<sup>23</sup>

The Governor, Attorney General, statewide prosecutor, or any state attorney can authorize a law enforcement agency to apply to a judge for a court order permitting the interception of wire, oral, or electronic communications.<sup>24</sup> Intercepting the communication is authorized when the interception may provide or has provided evidence of the commission of the crimes enumerated in s. 934.07(1), F.S.<sup>25</sup>

Section 934.09, F.S., contains the procedures related to the interception of wire, oral, or electronic communications. The procedures include what the application for a court order for the interception must contain, the time limitations for the interception, extensions of time, notice to the person whose communication has been intercepted, and special procedures in emergency situations.

To issue an order authorizing the interception, a court must determine that there is probable cause for belief that an individual is committing, has committed, or is about to commit an offense as listed in s. 934.07, F.S., and that there is probable cause for belief that particular communications concerning that offense will be obtained through such interception.<sup>26</sup>

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<sup>21</sup> Electronic Communications Privacy Act of 1986 (ECPA), 18 U.S.C. s. 2510-22. The ECPA updated the Federal Wiretap Act of 1968, which addressed interception of conversations using "hard" telephone lines, but did not apply to interception of computer and other digital and electronic communications. See U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Justice Information Sharing, Privacy & Civil Liberties*, April 23, 2019, available at <https://it.ojp.gov/PrivacyLiberty/authorities/statutes/1285> (last viewed January 21, 2021).

<sup>22</sup> Section 934.03(2)(a)2., F.S.

<sup>23</sup> The content of the wire or oral communications or evidence derived from the content may not be admitted as evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof. Section 934.06, F.S.

<sup>24</sup> Section 934.07(1), F.S.

<sup>25</sup> The crimes listed in s. 934.07(1)(a), F.S., are murder, kidnapping, aircraft piracy, arson, gambling, robbery, burglary, theft, dealing in stolen property, criminal usury, bribery, or extortion; any felony violation of ss. 790.161-790.166, F.S. (offenses for destructive devices); inclusive; any violation of s. 787.06, F.S. (human trafficking); any violation of ch. 893, F.S. (drug abuse prevention and control); any violation of the provisions of the Florida Anti-Fencing Act; any violation of ch. 895, F.S., (offenses concerning racketeering and illegal debts); any violation of ch. 896, F.S. (offenses related to financial transactions); any violation of ch. 815, F.S. (computer-related crimes); any violation of ch. 847, F.S. (offenses related to obscenity); any violation of s. 827.071, F.S. (sexual performance by a child); any violation of s. 944.40, F.S. (offenses related to escape); or any conspiracy or solicitation to commit any violation of the laws of this state relating to the crimes listed. Section 934.07(1)(b), F.S., authorizes the Florida Department of Law Enforcement (FDLE) to seek a court order to intercept wire, oral, or electronic communications when the interception may provide or has provided evidence of the commission of any offense that may be an act of terrorism or in furtherance of an act of terrorism or evidence of any conspiracy or solicitation to commit any such violation.

<sup>26</sup> Section 934.09(3), F.S.

Section 934.10, F.S., contains the civil remedies available to a person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of ss. 934.03-934.09, F.S.

### **Advancing Technology - Location Tracking**

Cell phones, smartphones, laptops, and tablets are all mobile devices that can be located whenever they are turned on.<sup>27</sup> There are essentially three methods of locating a mobile device:

- *Network-based location*, which occurs when a mobile device communicates with nearby cell sites. The mobile device communicates through a process called registration even when the device is idle. The service provider of the mobile device<sup>28</sup> can also initiate the registration of a device. This information is stored in provider databases in order to route calls. The smaller the cell site, the more precise the location data.
- *Handset-based location*, which uses information transmitted by the device itself, such as global positioning system (GPS) data.
- *Third-party methods*, which facilitate real-time tracking of a mobile signal directly by using technology that mimics a wireless carrier's network.<sup>29</sup>

### **Mobile Tracking Devices**

Mobile tracking devices can also be used to track a person's location. This broad category of devices includes radio frequency (RF)-enabled tracking devices (commonly referred to as "beepers"), satellite-based tracking devices, and cell-site tracking devices. Satellite-based tracking devices are commonly referred to as "GPS devices."<sup>30</sup>

Florida law defines a "tracking device" as an electronic or mechanical device which permits the tracking of movement of a person or object.<sup>31</sup> Section 934.42, F.S., requires a law enforcement officer to apply to a judge for a court order approving the "installation and use of a mobile tracking device."<sup>32</sup> If the court grants the order, the officer installs and uses the device.<sup>33</sup> The application for such an order must include:

- A statement of the identity of the applicant and the identity of the law enforcement agency conducting the investigation;
- A certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by the investigating agency;
- A statement of the offense to which the information likely to be obtained relates; and

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<sup>27</sup> *Locational Privacy, Cell Phone Tracking Methods*, Electronic Privacy Information Center, available at <https://epic.org/privacy/location> (last viewed January 21, 2021).

<sup>28</sup> A service provider is the company that provides the Internet to the mobile device. *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Ian Herbert, *Where We are with Location Tracking: A Look at the Current Technology and the Implications on Fourth Amendment Jurisprudence*, Berkley J. of Crim. Law, Vol. 16, Issue 2, p. 442, n. 1 (Fall 2011), available at [https://www.bjcl.org/assets/files/16\\_2-herbert\\_formatted.pdf](https://www.bjcl.org/assets/files/16_2-herbert_formatted.pdf) (last viewed January 21, 2021).

<sup>31</sup> Section 934.42(6), F.S.

<sup>32</sup> Section 934.42(1)-(2), F.S.

<sup>33</sup> Section 934.42(3), F.S.

- A statement whether it may be necessary to use and monitor the mobile tracking device outside the jurisdiction of the court from which authorization is being sought.<sup>34</sup>

The court then must review the application and if it finds that the above-described requirements are met, the court will order the authorization of the installation and use of a mobile tracking device. The court is not allowed to require greater specificity or additional information than the information listed above.<sup>35</sup>

The installation and the monitoring of a mobile tracking device are governed by the standards established by the United States Supreme Court.<sup>36</sup>

### ***Cellular-Site Location Data***

In the United States, it has been reported that there are 327.6 million cell phones in use, which is more than the current U.S. population (315 million people).<sup>37</sup> “As the cell phone travels, it connects to various cell phone towers, which means an electronic record of its location is created[.]”<sup>38</sup> The cell phone’s location record is held by the telecommunications company that services the device.<sup>39</sup>

Cellular-site location information (CSLI) is information generated when a cell phone connects and identifies its location to a nearby cell tower that, in turn, processes the phone call or text message made by the cell phone. “CSLI can be ‘historic,’ in which case the record is of a cell phone’s past movements, or it can be ‘real-time’ or prospective, in which case the information reveals the phone’s current location.”<sup>40</sup> Historic CSLI enables law enforcement to piece together past events by connecting a suspect to the location of a past crime.<sup>41</sup> Real-time location information helps law enforcement trace the current whereabouts of a suspect.<sup>42</sup>

### ***GPS Location Data***

A cell phone’s GPS capabilities allow it to be tracked to within 5 to 10 feet.<sup>43</sup> GPS provides users with positioning, navigation, and timing services based on data available from satellites orbiting the earth.<sup>44</sup> If a mobile device is equipped with GPS technology, significantly more precise location information is then sent from the handset to the carrier.<sup>45</sup>

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<sup>34</sup> Section 934.42(2), F.S.

<sup>35</sup> Section 934.42(3) and (4), F.S.

<sup>36</sup> Section 934.42(5), F.S.

<sup>37</sup> Mana Azarmi, *Location Data: The More They Know*, Center for Democracy and Technology, November 27, 2017, available at <https://cdt.org/blog/location-data-the-more-they-know/> (last viewed January 21, 2021).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Cell Phone Location Tracking*, National Association of Criminal Defense Lawyers, June 7, 2016, available at [https://www.law.berkeley.edu/wp-content/uploads/2015/04/2016-06-07\\_Cell-Tracking-Primer\\_Final.pdf](https://www.law.berkeley.edu/wp-content/uploads/2015/04/2016-06-07_Cell-Tracking-Primer_Final.pdf) (last viewed January 21, 2021).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *GPS Location Privacy*, GPS.gov, December 11, 2020, available at <https://www.gps.gov/policy/privacy> (last viewed January 21, 2021).

<sup>45</sup> Patrick Bertagna, *How does a GPS tracking system work?*, October 26, 2010, EE Times, available at [https://www.eetimes.com/document.asp?doc\\_id=1278363&page\\_number=2](https://www.eetimes.com/document.asp?doc_id=1278363&page_number=2) (last viewed January 21, 2021).

## Microphone-Enabled Household Devices

Another emerging technology raising privacy concerns is the smart speaker. Smart speakers, like the Google Nest<sup>46</sup> or Amazon Alexa,<sup>47</sup> are devices that use voice-activated artificial intelligence technology to respond to commands. They are designed as virtual home assistants and intended to be used in as many different ways as possible.<sup>48</sup>

Although the term “always on” is often used to describe smart speakers, this is not entirely accurate. Speech activated devices use the power of energy efficient processors to remain in an inert state of passive processing, or “listening,” for the “wake words.” The device buffers and re-records locally, without transmitting or storing any information, until it detects the word or phrase that triggers the device to begin actively recording and transmitting audio outside of the device to the service provider.<sup>49</sup>

## Chapter 934, F.S., Security of Communications Definitions

Several definitions in ch. 934, F.S., are pertinent to the bill:

- “Contents,” when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication.<sup>50</sup>
- “Electronic communication” means the transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects intrastate, interstate, or foreign commerce. The definition does not include: any wire or oral communication; any communication made through a tone-only paging device; any communication from an electronic or mechanical device which permits the tracking of the movement of a person or an object; or electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.<sup>51</sup>
- “Electronic communication service” means any service which provides to users thereof the ability to send or receive wire or electronic communications.<sup>52</sup>
- “Electronic communications system” means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications.<sup>53</sup>

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<sup>46</sup> *Google Nest*, Google Store, available at [https://store.google.com/category/connected\\_home](https://store.google.com/category/connected_home) (last viewed January 21, 2021).

<sup>47</sup> *Amazon Alexa*, available at <https://developer.amazon.com/en-US/alexa> (last viewed January 21, 2021).

<sup>48</sup> Allen St. John, *Smart Speakers that Listen When They Shouldn't*, Consumer Reports, August 29, 2019, available at <https://www.consumerreports.org/smart-speakers/smart-speakers-that-listen-when-they-shouldnt/> (last viewed January 21, 2021).

<sup>49</sup> *Id.* See also Stacey Gray, *Always On: Privacy Implications Of Microphone-Enabled Devices*, The Future of Privacy Forum, April 2016, available at [https://fpf.org/wp-content/uploads/2016/04/FPF\\_Always\\_On\\_WP.pdf](https://fpf.org/wp-content/uploads/2016/04/FPF_Always_On_WP.pdf) (last viewed January 21, 2021).

<sup>50</sup> Section 934.02(7), F.S.

<sup>51</sup> Section 934.02(12), F.S.

<sup>52</sup> Section 934.02(15), F.S.

<sup>53</sup> Section 934.02(14), F.S.

- “Electronic, mechanical, or other device” means any device or apparatus which can be used to intercept a wire, electronic, or oral communication other than any telephone or telegraph instrument, equipment, or facility, or any component thereof:
  - Furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; or
  - Being used by a provider of wire or electronic communications service in the ordinary course of its business or by an investigative or law enforcement officer in the ordinary course of her or his duties.<sup>54</sup>
- “Electronic storage” means any temporary intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof, and any storage of a wire or electronic communication by an electronic communication service for purposes of backup protection of such communication.<sup>55</sup>
- “Intercept” means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.<sup>56</sup>
- “Investigative or law enforcement officer” means any officer of the State of Florida or political subdivision thereof, of the United States, or of any other state or political subdivision thereof, who is empowered by law to conduct on behalf of the Government investigations of, or to make arrests for, offenses enumerated in this chapter or similar federal offenses, any attorney authorized by law to prosecute or participate in the prosecution of such offenses, or any other attorney representing the state or political subdivision thereof in any civil, regulatory, disciplinary, or forfeiture action relating to, based upon, or derived from such offenses.<sup>57</sup>
- “Oral communication” means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.<sup>58</sup>
- “Remote computing service” means the provision to the public of computer storage or processing services by means of an electronic communications system.<sup>59</sup>
- “Wire communication” means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception including the use of such connection in a switching station furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications or communications affecting intrastate, interstate, or foreign commerce.<sup>60</sup>

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<sup>54</sup> Section 934.02(4), F.S.

<sup>55</sup> Section 934.02(17), F.S.

<sup>56</sup> Section 934.02(3), F.S.

<sup>57</sup> Section 934.02(6), F.S.

<sup>58</sup> Section 934.02(2), F.S.

<sup>59</sup> Section 934.02(19), F.S.

<sup>60</sup> Section 934.02(1), F.S.

### **Prohibited Access to Stored Communications**

Under certain circumstances, Florida law prohibits accessing stored communications. It is unlawful for a person to:

- Intentionally access a facility through which an electronic communication service is provided; or
- Intentionally exceed an authorization to access; and
- Obtain, alter, or prevent authorized access to a wire or electronic communication while it is in electronic storage in such a system.<sup>61</sup>

The penalties for this offense vary based on the specific intent and the number of offenses.<sup>62</sup> It is a first degree misdemeanor<sup>63</sup> if the above described offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain.<sup>64</sup> Any subsequent offense with this intent is a third degree felony.<sup>65</sup> If the person did not have the above-described intent then the above-described offense is a second degree misdemeanor.<sup>66</sup>

### **III. Effect of Proposed Changes:**

#### **Chapter 933, F.S., Search Warrants (Sections 1 and 2)**

The bill amends s. 933.02, F.S., to incorporate content held within a cellular phone, portable electronic communication device, or microphone-enabled household device as among the grounds upon which a search warrant may be issued by a judge, if the content constitutes evidence relevant to proving that a felony has been committed.

Section 933.04, F.S., is amended to add the constitutional provision found in Article I, section 12 of the Constitution of Florida that protects private communications from unreasonable interception just as persons, houses, and effects are protected from unreasonable searches and seizures.

#### **Chapter 934, F.S., Legislative Findings (Section 3)**

The bill amends s. 934.01, F.S., by adding the term “electronic” to the current terminology of “wire and oral” communications in the legislative findings.

The bill also creates new legislative findings:

- Recognizing a subjective and objectively reasonable expectation of privacy in real-time cell-site location data, real-time precise GPS location data, and historical precise GPS location data. As such, the law enforcement collection of the precise location of a person, cellular

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<sup>61</sup> Section 934.21(1), F.S.

<sup>62</sup> See s. 934.21(2), F.S.

<sup>63</sup> A first degree misdemeanor is punishable by up to one year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

<sup>64</sup> Section 934.21(2), F.S.

<sup>65</sup> A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

<sup>66</sup> A second degree misdemeanor is punishable by up to 60 days in county jail, a fine of up to \$500, or both. Sections 775.082 and 775.083, F.S.

phone, or portable electronic communication device without the consent of the device owner should be allowed only when authorized by a warrant issued by a court and should remain under the control and supervision of the authorizing court.

- Recognizing that the use of portable electronic devices is growing at a rapidly increasing rate. These devices can store, and encourage the storage of, an almost limitless amount of personal and private information. Further recognizing that these devices are commonly used to access personal and business information and other data stored in computers and servers that can be located anywhere in the world. Recognizing a person who uses a portable electronic device has a reasonable and justifiable expectation of privacy in the information contained in the portable electronic device.
- Recognizing that microphone-enabled household devices often contain microphones that listen for and respond to environmental triggers. Further recognizing that these devices are generally connected to and communicate through the Internet, resulting in the storage of and accessibility of daily household information in a device itself or in a remote computing service. Finding that an individual should not have to choose between using household technological enhancements and conveniences or preserving the right to privacy in one's home.

#### **Chapter 934, F.S., Security of Communications Definitions (Section 4)**

The bill amends s. 934.02, F.S., by amending current definitions, and creating new definitions:

- The current definition of “oral communication” is amended to include the use of a microphone-enabled household device.
- The definition of “electronic communication” is amended by:
  - Adding the terms “communication tower” and “satellite” to the ways in which the transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature can be transmitted; and
  - Removing the exception of “any communication from an electronic or mechanical device which permits the tracking of the movement of a person or an object” from the definition;
- The definition of “microphone-enabled household device” is created and is defined as a device, sensor, or other physical object within a residence:
  - Capable of connecting to the Internet, directly or indirectly, or to another connected device;
  - Capable of creating, receiving, accessing, processing, or storing electronic data or communications;
  - Which communicates with, by any means, another device, entity, or individual; and
  - Which contains a microphone designed to listen for and respond to environmental cues.
- The definition of “portable electronic communication device” is created and is defined as an object capable of being easily transported or conveyed by a person which is capable of creating, receiving, accessing, or storing electronic data or communications and which communicates with, by any means, another device, entity, or individual.

#### **Interception of Wire, Oral, or Electronic Communications (Sections 5 – 9)**

**Section 5:** The bill amends s. 934.03(2)(a), F.S., to require a search warrant, rather than a court order, for a law enforcement officer authorized by law to intercept wire, oral, or electronic

communications to obtain information, facilities, or technical assistance from a wire, oral, or electronic communication service provider.

**Section 6:** Section 934.06, F.S., currently prohibits the use of intercepted wire or oral communication as evidence if the disclosure of that information would violate a provision of ch. 934, F.S. The bill adds the content of a cellular phone, microphone-enabled household device, or portable electronic communication device to this prohibition, and requires a search warrant to obtain that content. The bill also specifically provides that the communication may be used as evidence if the communication is lawfully obtained under circumstances where a search warrant is not required.

**Section 7:** The bill amends s. 934.07(1) and (2), F.S., to require a search warrant, rather than a court order, for the interception of wire, oral, or electronic communications.

**Section 8:** The bill amends the procedures found in s. 934.09, F.S., for intercepting the contents of wire, oral, or electronic communications to require that a judge issue a search warrant, rather than a court order.

**Section 9:** The bill retains current law relating to the civil remedies available to a person whose wire, oral, or electronic communication is intercepted, disclosed, or used in violation of ss. 934.03-934.09, F.S., while replacing the terms court order, subpoena, and legislative authorization with the term search warrant.

### **Penalties for Accessing Stored Communications (Section 10)**

The bill amends s. 934.21, F.S., to specify that the penalty for accessing a facility through which an electronic communication service is provided without authorization to obtain, alter, or prevent authorized access to a wire or electronic communication does not apply to conduct authorized:

- By the provider<sup>67</sup> or user<sup>68</sup> of wire, oral, or electronic communications services through cellular phones, portable electronic communication devices, or microphone-enabled household devices;
- In ss. 934.09, 934.23, or 934.24, F.S.;
- Under ch. 933, F.S.;<sup>69</sup> or
- For legitimate business purposes that do not identify the user.

### **Location Tracking (Section 11)**

The bill creates new definitions related to location tracking in s. 934.42, F.S. The bill provides that:

- “Historical location data” means historical precise GPS location data in the possession of a provider.

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<sup>67</sup> Section 934.21(3)(a), F.S.

<sup>68</sup> Section 934.21(3)(b), F.S.

<sup>69</sup> Chapter 933, F.S., authorizes search and inspection warrants.

- “Mobile tracking device” means an electronic or mechanical device that tracks the movement of a person or an object.
- “Real-time location tracking” means the:
  - Installation and use of a mobile tracking device on the object to be tracked;
  - Acquisition of real-time cell-site location data; or
  - Acquisition of real-time precise GPS location data.

The bill also amends s. 934.42, F.S., to require a search warrant rather than a court order for an investigative or law enforcement officer to engage in real-time location tracking or to acquire historical location data in the possession of a provider. This means that an investigative or law enforcement officer must meet the higher standard of having probable cause for purposes of a search warrant rather than the lower standard of having a reasonable, articulable suspicion.

The bill requires that the application for a search warrant set forth a reasonable length of time that the mobile tracking device may be used or the location data may be obtained in real-time. This time period may not exceed 45 days from the date the search warrant is issued. The court may, for good cause, grant one or more extensions for a reasonable period not to exceed 45 days each. When seeking historical location data the applicant must specify a date range for the data sought.

If the court issues a search warrant, the search warrant must also require the investigative or law enforcement officer to complete any authorized installation within a specified time-frame no longer than 10 days. A search warrant that permits the use of a mobile tracking device must be returned to the issuing judge within 10 days of the time period specified in the search warrant ending. Additionally, a search warrant authorizing the collection of historical GPS data must be returned to the issuing judge within 10 days after receiving the records.

Also, within 10 days after the use of the tracking device has ended or the historical location has been received from the service provider, the investigative or law enforcement officer executing the search warrant must serve a copy of the search warrant on the person who was tracked, whose property was tracked, or whose historical location data was received.<sup>70</sup> Upon a showing of good cause for postponement, the court may grant a postponement of this notice in 90 day increments.

The bill requires that, in addition to the United States Supreme Court standards, standards established by Florida courts apply to the installation, use, or monitoring of any mobile tracking device as authorized by s. 934.42, F.S.

The bill retains current provisions for real-time tracking without a search warrant if an emergency exists which:

- Involves immediate danger of death or serious physical injury to any person or the danger of escape of a prisoner;

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<sup>70</sup> Service may be accomplished by delivering a copy to the person who, or whose property, was tracked or data obtained; or by leaving a copy at the person’s residence or usual place of abode with an individual of suitable age and discretion who resides at that location and by mailing a copy to the person’s last known address.

- Requires the real-time tracking before a warrant authorizing such tracking can, with due diligence, be obtained; and if
- There are grounds upon which a warrant could be issued to authorize the real-time tracking.<sup>71</sup>

Within 48 hours after the tracking has occurred or begins to occur, a search warrant approving the real-time tracking must be issued in accordance with s. 934.42, F.S. When an application for a search warrant is denied, when the information sought has been obtained, or when 48 hours have lapsed since the tracking began, whichever is earlier, the tracking must be terminated immediately.

The bill reenacts ss. 934.22, 934.27, 934.23, 934.24, 934.25, and 934.28, F.S., for the purpose of incorporating the amendments made by the bill.

The bill is effective July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

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<sup>71</sup> This exception is similar to that found in s. 934.09(7), F.S., related to intercepting wire, oral, or electronic communication.

**C. Government Sector Impact:**

The Florida Department of Law Enforcement reports that it does not anticipate a fiscal impact related to this bill.<sup>72</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 933.02, 933.04, 934.01, 934.02, 934.03, 934.06, 934.07, 934.09, 934.10, 934.21, and 934.42.

The bill reenacts the following sections of the Florida Statutes: 934.22, 934.23, 934.24, 934.25, 934.27, and 934.28.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>72</sup> 2021 FDLE Legislative Bill Analysis, SB 144, December 22, 2020 (on file with the Senate Committee on Criminal Justice).

By Senator Brandes

24-00046-21

2021144\_\_

1 A bill to be entitled  
 2 An act relating to searches of cellular phones and  
 3 other electronic devices; amending s. 933.02, F.S.;  
 4 expanding the grounds for issuance of a search warrant  
 5 to include content held within a cellular phone,  
 6 portable electronic communication device, or  
 7 microphone-enabled household device when such content  
 8 constitutes evidence relevant to proving that a felony  
 9 has been committed; amending s. 933.04, F.S.; adopting  
 10 the constitutional protection against unreasonable  
 11 interception of private communications by any means  
 12 for purposes of obtaining a search warrant; amending  
 13 s. 934.01, F.S.; revising and providing legislative  
 14 findings; amending s. 934.02, F.S.; redefining the  
 15 terms "oral communication" and "electronic  
 16 communication"; defining the terms "microphone-enabled  
 17 household device" and "portable electronic  
 18 communication device"; amending s. 934.03, F.S.;  
 19 authorizing specified persons to provide information,  
 20 facilities, or technical assistance to a person  
 21 authorized by law to intercept wire, oral, or  
 22 electronic communications if such person has been  
 23 provided with a search warrant issued by a judge of  
 24 competent jurisdiction; prohibiting specified persons  
 25 from disclosing the existence of any interception of a  
 26 wire, oral, or electronic communication with respect  
 27 to which the person has been served with a search  
 28 warrant, rather than a court order; amending s.  
 29 934.06, F.S.; prohibiting the use of certain

Page 1 of 44

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24-00046-21

2021144\_\_

30 communication content in any trial, hearing, or other  
 31 proceeding which was obtained without a specified  
 32 warrant; providing an exception; amending s. 934.07,  
 33 F.S.; authorizing a judge to issue a search warrant,  
 34 rather than grant a court order, in conformity with  
 35 specified provisions; authorizing the Department of  
 36 Law Enforcement to request a law enforcement agency  
 37 that provided certain information to join the  
 38 department in seeking a new search warrant; amending  
 39 s. 934.09, F.S.; requiring that each application for a  
 40 search warrant, rather than an order, authorizing or  
 41 approving the interception of wire, oral, or  
 42 electronic communications be made in writing and state  
 43 the applicant's authority; revising the required  
 44 information that each application for a search warrant  
 45 must include; authorizing a judge to authorize a  
 46 search warrant ex parte, rather than an ex parte  
 47 order, based on the application under certain  
 48 circumstances; specifying requirements for search  
 49 warrants, rather than orders, issued under certain  
 50 circumstances; authorizing an aggrieved person to move  
 51 to suppress the contents of certain wire, oral, or  
 52 electronic communications before, as well as during, a  
 53 trial, hearing, or proceeding; providing for  
 54 inadmissibility of certain evidence if a certain  
 55 motion is granted; authorizing a judge of competent  
 56 jurisdiction to authorize interception within this  
 57 state under specified circumstances; amending s.  
 58 934.10, F.S., and reenacting subsection (1), relating

Page 2 of 44

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24-00046-21

2021144\_\_

59 to civil remedies; providing that a good faith  
 60 reliance on a search warrant, rather than a court  
 61 order, subpoena, or legislative authorization, issued  
 62 under certain provisions constitutes a complete  
 63 defense against specified actions; amending s. 934.21,  
 64 F.S.; revising the exceptions to conduct that  
 65 constitutes unlawful access to stored communications;  
 66 conforming a provision to changes made by the act;  
 67 amending s. 934.42, F.S.; defining the terms  
 68 "historical location data," "mobile tracking device,"  
 69 and "real-time location tracking"; authorizing an  
 70 investigative or law enforcement officer to apply to a  
 71 judge of competent jurisdiction for a search warrant,  
 72 rather than an order, authorizing real-time location  
 73 tracking or acquisition of historical location data;  
 74 requiring an application for a search warrant to  
 75 include a statement setting forth a reasonable period  
 76 of time the mobile tracking device may be used or the  
 77 location data may be obtained in real time, not to  
 78 exceed a specified limit; authorizing a court to  
 79 grant, for good cause, extensions that do not  
 80 individually exceed a specified limit; requiring an  
 81 applicant seeking historical location data to specify  
 82 a date range for the data sought; deleting a provision  
 83 requiring a certification to be included in the  
 84 application; requiring the court, if it finds probable  
 85 cause and that the application contains the required  
 86 statements, to grant a search warrant ex parte rather  
 87 than entering an ex parte order; specifying that the

Page 3 of 44

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24-00046-21

2021144\_\_

88 search warrant may authorize real-time location  
 89 tracking or acquisition of historical location data;  
 90 providing that the search warrant may authorize the  
 91 tracking as specified; requiring the search warrant to  
 92 command the investigative or law enforcement officer  
 93 to complete any initiation of the location tracking or  
 94 execution of the search warrant for historical  
 95 location data authorized by the search warrant within  
 96 a certain timeframe; providing requirements for the  
 97 return of the search warrant to the judge and for  
 98 service of a copy of the search warrant on the person  
 99 who was tracked or whose property was tracked;  
 100 providing requirements for returning and serving a  
 101 search warrant authorizing the acquisition of  
 102 historical location data; authorizing a court, for  
 103 good cause, to postpone the notice requirement for a  
 104 specified time period; requiring that the standards  
 105 established by Florida courts for the installation,  
 106 use, or monitoring of mobile tracking devices and the  
 107 acquisition of location data apply to the  
 108 installation, use, or monitoring of any device and the  
 109 acquisition of location data as authorized by certain  
 110 provisions; deleting the definition of "tracking  
 111 device"; authorizing any investigative or law  
 112 enforcement officer who is specially designated by  
 113 certain persons and who makes specified determinations  
 114 to engage in real-time location tracking if a search  
 115 warrant is obtained, as specified, after the tracking  
 116 has occurred or begins to occur; specifying when real-

Page 4 of 44

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24-00046-21

2021144\_\_

117 time location tracking must terminate; reenacting s.  
 118 934.22(2)(b), F.S., relating to voluntary disclosure  
 119 of customer communications or records, to incorporate  
 120 the amendments made to ss. 934.03 and 934.07, F.S., in  
 121 references thereto; reenacting s. 934.27(1) and (4),  
 122 F.S., relating to relief, damages, and defenses for  
 123 certain civil actions, to incorporate the amendments  
 124 made to ss. 934.09 and 934.21, F.S., in references  
 125 thereto; reenacting ss. 934.23(6), 934.24(6) and (7),  
 126 934.25(5), and 934.28, F.S., relating to required  
 127 disclosures of customer communications or records, a  
 128 subscriber or customer filing a motion for certain  
 129 relief and customer notification, delayed notice, and  
 130 the exclusivity of remedies and sanctions for certain  
 131 violations, respectively, to incorporate the amendment  
 132 made to s. 934.21, F.S., in references thereto;  
 133 providing an effective date.

134  
 135 Be It Enacted by the Legislature of the State of Florida:

136  
 137 Section 1. Section 933.02, Florida Statutes, is amended to  
 138 read:

139 933.02 Grounds for issuance of search warrant.—Upon proper  
 140 affidavits being made, a search warrant may be issued under ~~the~~  
 141 ~~provisions of~~ this chapter upon any of the following grounds:

142 (1) When the property shall have been stolen or embezzled  
 143 in violation of law.†

144 (2) When any property shall have been used:

145 (a) As a means to commit any crime;

Page 5 of 44

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24-00046-21

2021144\_\_

146 (b) In connection with gambling, gambling implements and  
 147 appliances; or  
 148 (c) In violation of s. 847.011 or other laws in reference  
 149 to obscene prints and literature.†  
 150 (3) When any property, or when content held within a  
 151 cellular phone, a portable electronic communication device as  
 152 defined in s. 934.02(28), or a microphone-enabled household  
 153 device as defined in s. 934.02(27), constitutes evidence  
 154 relevant to proving that a felony has been committed.†  
 155 (4) When any property is being held or possessed:  
 156 (a) In violation of any of the laws prohibiting the  
 157 manufacture, sale, and transportation of intoxicating liquors;  
 158 (b) In violation of the fish and game laws;  
 159 (c) In violation of the laws relative to food and drug; or  
 160 (d) In violation of the laws relative to citrus disease  
 161 pursuant to s. 581.184.† ~~or~~  
 162 (5) When the laws in relation to cruelty to animals, as  
 163 provided in chapter 828, have been or are violated in any  
 164 particular building or place.

165  
 166 This section also applies to any papers or documents used as a  
 167 means of or in aid of the commission of any offense against the  
 168 laws of the state.

169 Section 2. Section 933.04, Florida Statutes, is amended to  
 170 read:

171 933.04 Affidavits.—The right of the people to be secure in  
 172 their persons, houses, papers, and effects against unreasonable  
 173 seizures and searches and against the unreasonable interception  
 174 of private communications by any means may shall not be violated

Page 6 of 44

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175 and a ~~ne~~ search warrant may not ~~shall~~ be issued except upon  
 176 probable cause, supported by oath or affirmation particularly  
 177 describing the place to be searched and the person and thing to  
 178 be seized.

179 Section 3. Section 934.01, Florida Statutes, is amended to  
 180 read:

181 934.01 Legislative findings.—On the basis of its own  
 182 investigations and of published studies, the Legislature makes  
 183 the following findings:

184 (1) Wire communications are normally conducted through the  
 185 use of facilities which form part of an intrastate network. The  
 186 same facilities are used for interstate and intrastate  
 187 communications.

188 (2) In order to protect effectively the privacy of wire,  
 189 ~~and~~ oral, and electronic communications, to protect the  
 190 integrity of court and administrative proceedings, and to  
 191 prevent the obstruction of intrastate commerce, it is necessary  
 192 for the Legislature to define the circumstances and conditions  
 193 under which the interception of wire, ~~and~~ oral, and electronic  
 194 communications may be authorized and to prohibit any  
 195 unauthorized interception of such communications and the use of  
 196 the contents thereof in evidence in courts and administrative  
 197 proceedings.

198 (3) Organized criminals make extensive use of wire, ~~and~~  
 199 oral, and electronic communications in their criminal  
 200 activities. The interception of such communications to obtain  
 201 evidence of the commission of crimes or to prevent their  
 202 commission is an indispensable aid to law enforcement and the  
 203 administration of justice.

Page 7 of 44

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24-00046-21

2021144\_\_

204 (4) To safeguard the privacy of innocent persons, the  
 205 interception of wire, ~~or~~ oral, or electronic communications when  
 206 none of the parties to the communication has consented to the  
 207 interception should be allowed only when authorized by a court  
 208 of competent jurisdiction and should remain under the control  
 209 and supervision of the authorizing court. Interception of wire,  
 210 ~~and~~ oral, and electronic communications should further be  
 211 limited to certain major types of offenses and specific  
 212 categories of crime with assurance that the interception is  
 213 justified and that the information obtained thereby will not be  
 214 misused.

215 (5) To safeguard the privacy of innocent persons, the  
 216 Legislature recognizes the subjective expectation of privacy in  
 217 real-time cell-site location data, real-time precise global  
 218 positioning system location data, and historical precise global  
 219 positioning system location data which society is now prepared  
 220 to accept is objectively reasonable. As such, the law  
 221 enforcement collection of the precise location of a person,  
 222 cellular phone, or portable electronic communication device  
 223 without the consent of the person or owner of the cellular phone  
 224 or portable electronic communication device should be allowed  
 225 only when authorized by a search warrant issued by a court of  
 226 competent jurisdiction and should remain under the control and  
 227 supervision of the authorizing court.

228 (6) The Legislature recognizes that the use of portable  
 229 electronic communication devices is growing at a rapidly  
 230 increasing rate. These devices can store, and encourage the  
 231 storing of, an almost limitless amount of personal and private  
 232 information. Often linked to the Internet, these devices are

Page 8 of 44

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24-00046-21 2021144\_\_

233 commonly used to access personal and business information and  
 234 databases in computers and servers that can be located anywhere  
 235 in the world. The user of a portable electronic communication  
 236 device has a reasonable and justifiable expectation of privacy  
 237 in the information that these devices contain.

238 (7) The Legislature recognizes that the use of household  
 239 electronic devices, including microphone-enabled household  
 240 devices, is growing rapidly. These devices often contain  
 241 microphones that listen for and respond to environmental cues.  
 242 These household devices are generally connected to and  
 243 communicate through the Internet, resulting in the storage of  
 244 and accessibility to daily household information in the device  
 245 itself or in a remote computing service. Persons should not have  
 246 to choose between using household technological enhancements and  
 247 conveniences or preserving the right to privacy in their own  
 248 homes.

249 Section 4. Subsections (2) and (12) of section 934.02,  
 250 Florida Statutes, are amended, and subsections (27) and (28) are  
 251 added to that section, to read:

252 934.02 Definitions.—As used in this chapter:

253 (2) "Oral communication" means any oral communication  
 254 uttered by a person exhibiting an expectation that such  
 255 communication is not subject to interception under circumstances  
 256 justifying such expectation, including the use of a microphone-  
 257 enabled household device, and does not mean any public oral  
 258 communication uttered at a public meeting or any electronic  
 259 communication.

260 (12) "Electronic communication" means any transfer of  
 261 signs, signals, writing, images, sounds, data, or intelligence

24-00046-21 2021144\_\_

262 of any nature transmitted in whole or in part by a wire, a  
 263 radio, a communication tower, a satellite, an electromagnetic, a  
 264 photoelectronic, or a photooptical system that affects  
 265 intrastate, interstate, or foreign commerce, but does not  
 266 include:

267 (a) Any wire or oral communication;  
 268 (b) Any communication made through a tone-only paging  
 269 device;

270 ~~(c) Any communication from an electronic or mechanical~~  
 271 ~~device which permits the tracking of the movement of a person or~~  
 272 ~~an object; or~~

273 (c)(d) Electronic funds transfer information stored by a  
 274 financial institution in a communications system used for the  
 275 electronic storage and transfer of funds.

276 (27) "Microphone-enabled household device" means a device,  
 277 sensor, or other physical object within a residence which:

278 (a) Is capable of connecting to the Internet, directly or  
 279 indirectly, or to another connected device;

280 (b) Is capable of creating, receiving, accessing,  
 281 processing, or storing electronic data or communications;

282 (c) Communicates with, by any means, another device,  
 283 entity, or individual; and

284 (d) Contains a microphone designed to listen for and  
 285 respond to environmental cues.

286 (28) "Portable electronic communication device" means an  
 287 object that may be easily transported or conveyed by a person;  
 288 is capable of creating, receiving, accessing, processing, or  
 289 storing electronic data or communications; and communicates  
 290 with, by any means, another device, entity, or individual.

24-00046-21

2021144\_\_

291 Section 5. Subsection (2) of section 934.03, Florida  
292 Statutes, is amended to read:

293 934.03 Interception and disclosure of wire, oral, or  
294 electronic communications prohibited.-

295 (2) (a) 1. It is lawful under this section and ss. 934.04-  
296 934.09 for an operator of a switchboard, or an officer,  
297 employee, or agent of a provider of wire or electronic  
298 communication service whose facilities are used in the  
299 transmission of a wire or electronic communication, to  
300 intercept, disclose, or use that communication in the normal  
301 course of his or her employment while engaged in any activity  
302 which is a necessary incident to the rendition of his or her  
303 service or to the protection of the rights or property of the  
304 provider of that service, except that a provider of wire  
305 communication service to the public may not use ~~shall not~~  
306 ~~utilize~~ service observing or random monitoring except for  
307 mechanical or service quality control checks.

308 2. Notwithstanding any other law, a provider of wire, oral,  
309 or electronic communication service, or an officer, employee, or  
310 agent thereof, or landlord, custodian, or other person, may  
311 provide information, facilities, or technical assistance to a  
312 person authorized by law to intercept wire, oral, or electronic  
313 communications if such provider, or an officer, employee, or  
314 agent thereof, or landlord, custodian, or other person, has been  
315 provided with:

316 a. A ~~court order directing such assistance signed by the~~  
317 ~~authorizing judge, or~~

318 ~~b. A~~ certification in writing by a person specified in s.  
319 934.09(7) that a search ~~ne~~ warrant or court order is not

Page 11 of 44

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24-00046-21

2021144\_\_

320 required by law, that all statutory requirements have been met,  
321 and that the specified assistance is required, setting forth the  
322 period of time during which the provision of the information,  
323 facilities, or technical assistance is authorized and specifying  
324 the information, facilities, or technical assistance required;  
325 or

326 b. A search warrant issued by a judge of competent  
327 jurisdiction as required by law.

328 3. A provider of wire, oral, or electronic communication  
329 service, or an officer, employee, or agent thereof, or landlord,  
330 custodian, or other person may not disclose the existence of any  
331 interception or the device used to accomplish the interception  
332 with respect to which the person has been served with a search  
333 warrant ~~furnished an order under this section and ss. 934.04-~~  
334 ~~934.09~~, except as may otherwise be required by legal process and  
335 then only after prior notice to the Governor, the Attorney  
336 General, the statewide prosecutor, or a state attorney, as may  
337 be appropriate. Any such disclosure renders such person liable  
338 for the civil damages provided under s. 934.10, and such person  
339 may be prosecuted under s. 934.43. An action may not be brought  
340 against any provider of wire, oral, or electronic communication  
341 service, or an officer, employee, or agent thereof, or landlord,  
342 custodian, or other person for providing information,  
343 facilities, or assistance in accordance with the terms of a  
344 search warrant ~~court order under this section and ss. 934.04-~~  
345 ~~934.09.~~

346 (b) It is lawful under this section and ss. 934.04-934.09  
347 for an officer, employee, or agent of the Federal Communications  
348 Commission, in the normal course of his or her employment and in

Page 12 of 44

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24-00046-21 2021144\_\_

349 discharge of the monitoring responsibilities exercised by the  
 350 commission in the enforcement of 47 U.S.C. chapter 5, to  
 351 intercept a wire, oral, or electronic communication transmitted  
 352 by radio or to disclose or use the information thereby obtained.  
 353 (c) It is lawful under this section and ss. 934.04-934.09  
 354 for an investigative or law enforcement officer or a person  
 355 acting under the direction of an investigative or law  
 356 enforcement officer to intercept a wire, oral, or electronic  
 357 communication when such person is a party to the communication  
 358 or one of the parties to the communication has given prior  
 359 consent to such interception and the purpose of such  
 360 interception is to obtain evidence of a criminal act.  
 361 (d) It is lawful under this section and ss. 934.04-934.09  
 362 for a person to intercept a wire, oral, or electronic  
 363 communication when all of the parties to the communication have  
 364 given prior consent to such interception.  
 365 (e) It is unlawful to intercept any wire, oral, or  
 366 electronic communication for the purpose of committing any  
 367 criminal act.  
 368 (f) It is lawful under this section and ss. 934.04-934.09  
 369 for an employee of a telephone company to intercept a wire  
 370 communication for the sole purpose of tracing the origin of such  
 371 communication when the interception is requested by the  
 372 recipient of the communication and the recipient alleges that  
 373 the communication is obscene, harassing, or threatening in  
 374 nature. The individual conducting the interception shall notify  
 375 local police authorities within 48 hours after the time of the  
 376 interception.  
 377 (g) It is lawful under this section and ss. 934.04-934.09

24-00046-21 2021144\_\_

378 for an employee of:  
 379 1. An ambulance service licensed pursuant to s. 401.25, a  
 380 fire station employing firefighters as defined by s. 633.102, a  
 381 public utility, a law enforcement agency as defined by s.  
 382 934.02(10), or any other entity with published emergency  
 383 telephone numbers;  
 384 2. An agency operating an emergency telephone number "911"  
 385 system established pursuant to s. 365.171; or  
 386 3. The central abuse hotline operated pursuant to s. 39.201  
 387  
 388 to intercept and record incoming wire communications; however,  
 389 such employee may intercept and record incoming wire  
 390 communications on designated "911" telephone numbers and  
 391 published nonemergency telephone numbers staffed by trained  
 392 dispatchers at public safety answering points only. It is also  
 393 lawful for such employee to intercept and record outgoing wire  
 394 communications to the numbers from which such incoming wire  
 395 communications were placed when necessary to obtain information  
 396 required to provide the emergency services being requested. For  
 397 the purpose of this paragraph, the term "public utility" has the  
 398 same meaning as provided in s. 366.02 and includes a person,  
 399 partnership, association, or corporation now or hereafter owning  
 400 or operating equipment or facilities in the state for conveying  
 401 or transmitting messages or communications by telephone or  
 402 telegraph to the public for compensation.  
 403 (h) It is lawful ~~shall not be unlawful~~ under this section  
 404 and ss. 934.04-934.09 for any person:  
 405 1. To intercept or access an electronic communication made  
 406 through an electronic communication system that is configured so

24-00046-21 2021144\_\_

407 that such electronic communication is readily accessible to the  
 408 general public.

409 2. To intercept any radio communication which is  
 410 transmitted:

411 a. By any station for the use of the general public, or  
 412 that relates to ships, aircraft, vehicles, or persons in  
 413 distress;

414 b. By any governmental, law enforcement, civil defense,  
 415 private land mobile, or public safety communications system,  
 416 including any police or fire communications system, readily  
 417 accessible to the general public;

418 c. By a station operating on an authorized frequency within  
 419 the bands allocated to the amateur, citizens band, or general  
 420 mobile radio services; or

421 d. By any marine or aeronautical communications system.

422 3. To engage in any conduct which:

423 a. Is prohibited by s. 633 of the Communications Act of  
 424 1934; or

425 b. Is excepted from the application of s. 705(a) of the  
 426 Communications Act of 1934 by s. 705(b) of that act.

427 4. To intercept any wire or electronic communication the  
 428 transmission of which is causing harmful interference to any  
 429 lawfully operating station of consumer electronic equipment to  
 430 the extent necessary to identify the source of such  
 431 interference.

432 5. To intercept, if such person is another user of the same  
 433 frequency, any radio communication that is not scrambled or  
 434 encrypted made through a system that utilizes frequencies  
 435 monitored by individuals engaged in the provision or the use of

24-00046-21 2021144\_\_

436 such system.

437 6. To intercept a satellite transmission that is not  
 438 scrambled or encrypted and that is transmitted:

439 a. To a broadcasting station for purposes of retransmission  
 440 to the general public; or

441 b. As an audio subcarrier intended for redistribution to  
 442 facilities open to the public, but not including data  
 443 transmissions or telephone calls, when such interception is not  
 444 for the purposes of direct or indirect commercial advantage or  
 445 private financial gain.

446 7. To intercept and privately view a private satellite  
 447 video communication that is not scrambled or encrypted or to  
 448 intercept a radio communication that is transmitted on  
 449 frequencies allocated under subpart D of part 74 of the rules of  
 450 the Federal Communications Commission that is not scrambled or  
 451 encrypted, if such interception is not for a tortious or illegal  
 452 purpose or for purposes of direct or indirect commercial  
 453 advantage or private commercial gain.

454 (i) It is lawful ~~shall not be unlawful~~ under this section  
 455 and ss. 934.04-934.09:

456 1. To use a pen register or a trap and trace device as  
 457 authorized under ss. 934.31-934.34 or under federal law; or

458 2. For a provider of electronic communication service to  
 459 record the fact that a wire or electronic communication was  
 460 initiated or completed in order to protect such provider,  
 461 another provider furnishing service toward the completion of the  
 462 wire or electronic communication, or a user of that service,  
 463 from fraudulent, unlawful, or abusive use of such service.

464 (j) It is lawful ~~not unlawful~~ under this section and ss.

24-00046-21 2021144\_\_

465 934.04-934.09 for a person acting under color of law to  
466 intercept the wire or electronic communications of a computer  
467 trespasser which are transmitted to, through, or from a  
468 protected computer if:

- 469 1. The owner or operator of the protected computer
- 470 authorizes the interception of the communications of the
- 471 computer trespasser;
- 472 2. The person acting under color of law is lawfully engaged
- 473 in an investigation;
- 474 3. The person acting under color of law has reasonable
- 475 grounds to believe that the contents of the communications of
- 476 the computer trespasser will be relevant to the investigation;
- 477 and
- 478 4. The interception does not acquire communications other
- 479 than those transmitted to, through, or from the computer
- 480 trespasser.

481 (k) It is lawful under this section and ss. 934.04-934.09  
482 for a child under 18 years of age to intercept and record an  
483 oral communication if the child is a party to the communication  
484 and has reasonable grounds to believe that recording the  
485 communication will capture a statement by another party to the  
486 communication that the other party intends to commit, is  
487 committing, or has committed an unlawful sexual act or an  
488 unlawful act of physical force or violence against the child.

489 Section 6. Section 934.06, Florida Statutes, is amended to  
490 read:

491 934.06 Prohibition of use as evidence of intercepted wire  
492 or oral communications; content of cellular phone, microphone-  
493 enabled household device, or portable electronic communication

Page 17 of 44

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24-00046-21 2021144\_\_

494 device; exceptions ~~exception~~.-Whenever any wire or oral  
495 communication has been intercepted, or when the content of a  
496 cellular phone, microphone-enabled household device, or portable  
497 electronic communication device is obtained without a search  
498 warrant supported by probable cause, no part of the contents of  
499 such communication or content and no evidence derived therefrom  
500 may be received in evidence in any trial, hearing, or other  
501 proceeding in or before any court, grand jury, department,  
502 officer, agency, regulatory body, legislative committee, or  
503 other authority of the state, or a political subdivision  
504 thereof, if the disclosure of that information would be in  
505 violation of this chapter. The prohibition of use as evidence  
506 provided in this section does not apply in cases of prosecution  
507 for criminal interception in violation of ~~the provisions of this~~  
508 chapter, or in cases where the content of a cellular phone,  
509 microphone-enabled household device, or portable electronic  
510 communication device is lawfully obtained under circumstances  
511 where a search warrant is not required.

512 Section 7. Subsections (1) and (2) of section 934.07,  
513 Florida Statutes, are amended to read:

514 934.07 Authorization for interception of wire, oral, or  
515 electronic communications.-

516 (1) The Governor, the Attorney General, the statewide  
517 prosecutor, or any state attorney may authorize an application  
518 to a judge of competent jurisdiction for, and such judge may  
519 issue a search warrant as required by law ~~grant in conformity~~  
520 ~~with ss. 934.03-934.09 an order~~ authorizing or approving the  
521 interception of, wire, oral, or electronic communications by:

522 (a) The Department of Law Enforcement or any law

Page 18 of 44

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24-00046-21 2021144\_\_  
 523 enforcement agency as defined in s. 934.02 having responsibility  
 524 for the investigation of the offense as to which the application  
 525 is made when such interception may provide or has provided  
 526 evidence of the commission of the offense of murder, kidnapping,  
 527 aircraft piracy, arson, gambling, robbery, burglary, theft,  
 528 dealing in stolen property, criminal usury, bribery, or  
 529 extortion; any felony violation of ss. 790.161-790.166,  
 530 inclusive; any violation of s. 787.06; any violation of chapter  
 531 893; any violation of ~~the provisions of~~ the Florida Anti-Fencing  
 532 Act; any violation of chapter 895; any violation of chapter 896;  
 533 any violation of chapter 815; any violation of chapter 847; any  
 534 violation of s. 827.071; any violation of s. 944.40; or any  
 535 conspiracy or solicitation to commit any violation of the laws  
 536 of this state relating to the crimes specifically enumerated in  
 537 this paragraph.

538 (b) The Department of Law Enforcement, together with other  
 539 assisting personnel as authorized and requested by the  
 540 department under s. 934.09(5), for the investigation of the  
 541 offense as to which the application is made when such  
 542 interception may provide or has provided evidence of the  
 543 commission of any offense that may be an act of terrorism or in  
 544 furtherance of an act of terrorism or evidence of any conspiracy  
 545 or solicitation to commit any such violation.

546 (2) (a) If, during the course of an interception of  
 547 communications by a law enforcement agency as authorized under  
 548 paragraph (1) (a), the law enforcement agency finds that the  
 549 intercepted communications may provide or have provided evidence  
 550 of the commission of any offense that may be an act of terrorism  
 551 or in furtherance of an act of terrorism, or evidence of any

24-00046-21 2021144\_\_  
 552 conspiracy or solicitation to commit any such violation, the law  
 553 enforcement agency shall promptly notify the Department of Law  
 554 Enforcement and apprise the department of the contents of the  
 555 intercepted communications. The agency notifying the department  
 556 may continue its previously authorized interception with  
 557 appropriate minimization, as applicable, and may otherwise  
 558 assist the department as provided in this section.

559 (b) Upon its receipt of information of the contents of an  
 560 intercepted communications from a law enforcement agency, the  
 561 Department of Law Enforcement shall promptly review the  
 562 information to determine whether the information relates to an  
 563 actual or anticipated act of terrorism as defined in this  
 564 section. If, after reviewing the contents of the intercepted  
 565 communications, there is probable cause that the contents of the  
 566 intercepted communications meet the criteria of paragraph  
 567 (1) (b), the Department of Law Enforcement may make application  
 568 for the interception of wire, oral, or electronic communications  
 569 consistent with paragraph (1) (b). The department may make an  
 570 independent new application for interception based on the  
 571 contents of the intercepted communications. Alternatively, the  
 572 department may request the law enforcement agency that provided  
 573 the information to join with the department in seeking a new  
 574 search warrant as required by law or an amendment of the  
 575 original interception ~~search warrant order~~, or may seek  
 576 additional authority to continue intercepting communications  
 577 under the direction of the department. In carrying out its  
 578 duties under this section, the department may use the provisions  
 579 for an emergency interception provided in s. 934.09(7) if  
 580 applicable under statutory criteria.

24-00046-21

2021144\_\_

581 Section 8. Section 934.09, Florida Statutes, is amended to  
582 read:

583 934.09 Procedure for interception of wire, oral, or  
584 electronic communications.—

585 (1) Each application for a search warrant ~~an order~~  
586 authorizing or approving the interception of a wire, oral, or  
587 electronic communication under ss. 934.03-934.09 shall be made  
588 in writing upon oath or affirmation to a judge of competent  
589 jurisdiction and shall state the applicant's authority to make  
590 such application. Each application shall include the following  
591 information:

592 (a) The identity of the investigative or law enforcement  
593 officer making the application and the officer authorizing the  
594 application.

595 (b) A full and complete statement of the facts and  
596 circumstances relied upon by the applicant to justify his or her  
597 belief that a search warrant ~~an order~~ should be issued,  
598 including:

599 1. Details as to the particular offense that has been, is  
600 being, or is about to be committed.

601 2. Except as provided in subsection (11), a particular  
602 description of the nature and location of the facilities from  
603 which, or the place where, the communications are to be  
604 intercepted.

605 3. A particular description of the type of communications  
606 sought to be intercepted.

607 4. The identity of the person, if known, committing the  
608 offense and whose communications are to be intercepted.

609 (c) A full and complete statement as to whether or not

24-00046-21

2021144\_\_

610 other investigative procedures have been tried and failed or why  
611 they reasonably appear to be unlikely to succeed if tried or to  
612 be too dangerous.

613 (d) A statement of the period of time for which the  
614 interception is required to be maintained and, if the nature of  
615 the investigation is such that the authorization for  
616 interception should not automatically terminate when the  
617 described type of communication has been first obtained, a  
618 particular description of facts establishing probable cause to  
619 believe that additional communications of the same type will  
620 occur thereafter.

621 (e) A full and complete statement of the facts concerning  
622 all previous applications known to the individual authorizing  
623 and making the application, made to any judge for authorization  
624 to intercept, or for approval of interceptions of, wire, oral,  
625 or electronic communications involving any of the same persons,  
626 facilities, or places specified in the application, and the  
627 action taken by the judge on each such application.

628 (f) When the application is for the extension of a search  
629 warrant ~~an order~~, a statement setting forth the results thus far  
630 obtained from the interception or a reasonable explanation of  
631 the failure to obtain such results.

632 (2) The judge may require the applicant to furnish  
633 additional testimony or documentary evidence in support of the  
634 application.

635 (3) Upon such application, the judge may authorize a search  
636 warrant ~~enter an~~ ex parte order, as requested or as modified,  
637 authorizing or approving interception of wire, oral, or  
638 electronic communications within the territorial jurisdiction of

24-00046-21

2021144\_\_

639 the court in which the judge is sitting, and outside such  
640 jurisdiction but within the State of Florida in the case of a  
641 mobile interception device authorized by the judge within such  
642 jurisdiction, if the judge determines on the basis of the facts  
643 submitted by the applicant that:

644 (a) There is probable cause for belief that an individual  
645 is committing, has committed, or is about to commit an offense  
646 as provided in s. 934.07.

647 (b) There is probable cause for belief that particular  
648 communications concerning that offense will be obtained through  
649 such interception.

650 (c) Normal investigative procedures have been tried and  
651 have failed or reasonably appear to be unlikely to succeed if  
652 tried or to be too dangerous.

653 (d) Except as provided in subsection (11), there is  
654 probable cause for belief that the facilities from which, or the  
655 place where, the wire, oral, or electronic communications are to  
656 be intercepted are being used, or are about to be used, in  
657 connection with the commission of such offense, or are leased  
658 to, listed in the name of, or commonly used by such person.

659 (4) Each search warrant ~~order~~ authorizing or approving the  
660 interception of any wire, oral, or electronic communication  
661 shall specify:

662 (a) The identity of the person, if known, whose  
663 communications are to be intercepted.

664 (b) The nature and location of the communications  
665 facilities as to which, or the place where, authority to  
666 intercept is granted.

667 (c) A particular description of the type of communication

Page 23 of 44

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24-00046-21

2021144\_\_

668 sought to be intercepted and a statement of the particular  
669 offense to which it relates.

670 (d) The identity of the agency authorized to intercept the  
671 communications and of the person authorizing the application.

672 (e) The period of time during which such interception is  
673 authorized, including a statement as to whether or not the  
674 interception shall automatically terminate when the described  
675 communication has been first obtained.

676  
677 A search warrant ~~An order~~ authorizing the interception of a  
678 wire, oral, or electronic communication shall, upon the request  
679 of the applicant, direct that a provider of wire or electronic  
680 communication service, landlord, custodian, or other person  
681 shall furnish the applicant forthwith all information,  
682 facilities, and technical assistance necessary to accomplish the  
683 interception unobtrusively and with a minimum of interference  
684 with the services that such service provider, landlord,  
685 custodian, or person is according the person whose  
686 communications are to be intercepted. The obligation of a  
687 provider of wire, oral, or electronic communication service  
688 under such a search warrant ~~an order~~ may include, but is not  
689 limited to, conducting an in-progress trace during an  
690 interception, or providing other assistance to support the  
691 investigation as may be specified in the search warrant ~~order~~.  
692 Any provider of wire or electronic communication service,  
693 landlord, custodian, or other person furnishing such facilities  
694 or technical assistance shall be compensated therefor by the  
695 applicant for reasonable expenses incurred in providing such  
696 facilities or assistance.

Page 24 of 44

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24-00046-21

2021144\_\_

697 (5) A search warrant ~~No order~~ entered under this section  
 698 may not authorize or approve the interception of any wire, oral,  
 699 or electronic communication for any period longer than is  
 700 necessary to achieve the objective of the authorization or in  
 701 any event longer than 30 days. Such 30-day period begins on the  
 702 day on which the agent or officer of the law enforcement agency  
 703 first begins to conduct an interception under the search warrant  
 704 ~~order~~ or 10 days after the search warrant is approved ~~order is~~  
 705 ~~entered~~, whichever occurs earlier. Extensions of a search  
 706 warrant ~~an order~~ may be granted but only upon application for an  
 707 extension made in accordance with subsection (1) and upon the  
 708 court making the findings required by subsection (3). The period  
 709 of extension shall be no longer than the authorizing judge deems  
 710 necessary to achieve the purposes for which it was granted and  
 711 in no event for longer than 30 days. Every search warrant ~~order~~  
 712 and extension thereof shall contain a provision that the  
 713 authorization to intercept shall be executed as soon as  
 714 practicable, shall be conducted in such a way as to minimize the  
 715 interception of communications not otherwise subject to  
 716 interception under ss. 934.03-934.09, and must terminate upon  
 717 attainment of the authorized objective or in any event in 30  
 718 days. If the intercepted communication is in code or foreign  
 719 language and an expert in that foreign language or code is not  
 720 reasonably available during the interception period,  
 721 minimization may be accomplished as soon as practicable after  
 722 such interception. An interception under ss. 934.03-934.09 may  
 723 be conducted in whole or in part by government personnel or by  
 724 an individual operating under a contract with the government,  
 725 acting under the supervision of an agent or officer of the law

Page 25 of 44

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24-00046-21

2021144\_\_

726 enforcement agency authorized to conduct the interception.  
 727 (6) Whenever a search warrant ~~an order~~ authorizing  
 728 interception is granted ~~entered~~ pursuant to ss. 934.03-934.09,  
 729 the search warrant ~~order~~ may require reports to be made to the  
 730 judge who issued the search warrant ~~order~~ showing what progress  
 731 has been made toward achievement of the authorized objective and  
 732 the need for continued interception. Such reports shall be made  
 733 at such intervals as the judge may require.  
 734 (7) Notwithstanding any other provision of this chapter,  
 735 any investigative or law enforcement officer specially  
 736 designated by the Governor, the Attorney General, the statewide  
 737 prosecutor, or a state attorney acting under this chapter, who  
 738 reasonably determines that:  
 739 (a) An emergency exists that:  
 740 1. Involves immediate danger of death or serious physical  
 741 injury to any person, the danger of escape of a prisoner, or  
 742 conspiratorial activities threatening the security interest of  
 743 the nation or state; and  
 744 2. Requires that a wire, oral, or electronic communication  
 745 be intercepted before a search warrant ~~an order~~ authorizing such  
 746 interception can, with due diligence, be obtained; and  
 747 (b) There are grounds upon which a search warrant ~~an order~~  
 748 could be entered under this chapter to authorize such  
 749 interception,  
 750  
 751 may intercept such wire, oral, or electronic communication if an  
 752 application for a search warrant ~~an order~~ approving the  
 753 interception is made in accordance with this section within 48  
 754 hours after the interception has occurred or begins to occur. In

Page 26 of 44

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24-00046-21

2021144\_\_

755 the absence of a search warrant ~~an order~~, such interception  
 756 shall immediately terminate when the communication sought is  
 757 obtained or when the application for the search warrant ~~order~~ is  
 758 denied, whichever is earlier. If such application for approval  
 759 is denied, or in any other case in which the interception is  
 760 terminated without a search warrant ~~an order~~ having been issued,  
 761 the contents of any wire, oral, or electronic communication  
 762 intercepted shall be treated as having been obtained in  
 763 violation of s. 934.03(4), and an inventory shall be served as  
 764 provided for in paragraph (8) (e) on the person named in the  
 765 application.

766 (8) (a) The contents of any wire, oral, or electronic  
 767 communication intercepted by any means authorized by ss. 934.03-  
 768 934.09 shall, if possible, be recorded on tape or wire or other  
 769 comparable device. The recording of the contents of any wire,  
 770 oral, or electronic communication under this subsection shall be  
 771 kept in such a way as will protect the recording from editing or  
 772 other alterations. Immediately upon the expiration of the period  
 773 of the search warrant ~~order~~, or extensions thereof, such  
 774 recordings shall be made available to the judge approving the  
 775 search warrant ~~issuing such order~~ and sealed under his or her  
 776 directions. Custody of the recordings shall be wherever the  
 777 judge orders. They ~~may shall~~ not be destroyed except upon an  
 778 order of the issuing or denying judge, or that judge's successor  
 779 in office, and in any event shall be kept for 10 years.  
 780 Duplicate recordings may be made for use or disclosure pursuant  
 781 to ~~the provisions of~~ s. 934.08(1) and (2) for investigations, or  
 782 for purposes of discovery as required by law.

783 (b) The presence of the seal provided for by this

Page 27 of 44

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24-00046-21

2021144\_\_

784 subsection, or a satisfactory explanation for the absence  
 785 thereof, shall be a prerequisite for the use or disclosure of  
 786 the contents of any wire, oral, or electronic communication or  
 787 evidence derived therefrom under s. 934.08(3), as required by  
 788 federal law.

789 (c) Applications made and search warrants ~~orders~~ granted  
 790 under ss. 934.03-934.09 shall be sealed by the judge. Custody of  
 791 the applications and search warrants ~~orders~~ shall be wherever  
 792 the judge directs. As required by ~~federal~~ law, such applications  
 793 and search warrants ~~orders~~ shall be disclosed only for purposes  
 794 of discovery or upon a showing of good cause before a judge of  
 795 competent jurisdiction and ~~may shall~~ not be destroyed except on  
 796 order of the issuing or denying judge, or that judge's successor  
 797 in office, and in any event shall be kept for 10 years.

798 (d) Any violation of ~~the provisions of~~ this subsection may  
 799 be punished as contempt of the issuing or denying judge.

800 (e) Within a reasonable time but not later than 90 days  
 801 after the termination of the period of a search warrant ~~an order~~  
 802 or extensions thereof, the issuing or denying judge shall cause  
 803 to be served on the persons named in the search warrant ~~order~~ or  
 804 the application, and such other parties to intercepted  
 805 communications as the judge may determine in his or her  
 806 discretion to be in the interest of justice, an inventory which  
 807 shall include notice of:

808 1. The fact of the approval of the search warrant ~~entry of~~  
 809 ~~the order~~ or the application.

810 2. The date of the approval of the search warrant ~~entry~~ and  
 811 the period of authorized, approved, or disapproved interception,  
 812 or the denial of the application.

Page 28 of 44

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24-00046-21

2021144\_\_

813 3. The fact that during the period wire, oral, or  
814 electronic communications were or were not intercepted.

815  
816 The judge, upon the filing of a motion, may make available to  
817 such person or the person's counsel for inspection such portions  
818 of the intercepted communications, applications, and search  
819 warrants orders as the judge determines to be in the interest of  
820 justice. On an ex parte showing of good cause to a judge of  
821 competent jurisdiction, the serving of the inventory required by  
822 this paragraph may be postponed.

823 (9) ~~As required by federal law,~~ The contents of any  
824 intercepted wire, oral, or electronic communication or evidence  
825 derived therefrom may shall not be received in evidence or  
826 otherwise disclosed in any trial, hearing, or other proceeding  
827 unless each party, not less than 10 days before the trial,  
828 hearing, or proceeding, has been furnished with a copy of the  
829 search warrant court order and accompanying application under  
830 which the interception was authorized or approved. This 10-day  
831 period may be waived by the judge if he or she finds that it was  
832 not possible to furnish the party with the above information 10  
833 days before the trial, hearing, or proceeding and that the party  
834 will not be prejudiced by the delay in receiving such  
835 information.

836 (10) (a) ~~An Any~~ aggrieved person before or in any trial,  
837 hearing, or proceeding in or before any court, department,  
838 officer, agency, regulatory body, or other authority may move to  
839 suppress the contents of any intercepted wire, oral, or  
840 electronic communication, or evidence derived therefrom, on the  
841 grounds that:

Page 29 of 44

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24-00046-21

2021144\_\_

842 1. The communication was unlawfully intercepted;

843 2. The search warrant order of authorization or approval  
844 under which it was intercepted is insufficient on its face; or

845 3. The interception was not made in conformity with the  
846 search warrant order of authorization or approval.

847 (b) Except as otherwise provided in the applicable Florida  
848 Rules of Criminal Procedure, in a criminal matter:

849 1. Such motion shall be made before the trial, hearing, or  
850 proceeding unless there was no opportunity to make such motion  
851 or the person was not aware of the grounds of the motion.

852 2. If the motion is granted, the contents of the  
853 intercepted wire or oral communication, or evidence derived  
854 therefrom, shall be treated as having been obtained in violation  
855 of ss. 934.03-934.09 and are not admissible as evidence.

856 3. The judge, upon the filing of such motion by the  
857 aggrieved person, may make available to the aggrieved person or  
858 his or her counsel for inspection such portions of the  
859 intercepted communication or evidence derived therefrom as the  
860 judge determines to be in the interest of justice.

861 (c) (b) In addition to any other right to appeal, the state  
862 shall have the right to appeal from an order granting a motion  
863 to suppress made under paragraph (a) or the denial of an  
864 application for a search warrant an order of approval if the  
865 attorney shall certify to the judge or other official granting  
866 such motion or denying such application that the appeal is not  
867 taken for purposes of delay. Such appeal shall be taken within  
868 30 days after the date the order was entered and shall be  
869 diligently prosecuted.

870 (d) (e) The remedies and sanctions described in ss. 934.03-

Page 30 of 44

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24-00046-21

2021144\_\_

871 934.10 with respect to the interception of electronic  
 872 communications are the only judicial remedies and sanctions for  
 873 violations of those sections involving such communications.  
 874 (11) The requirements of subparagraph (1)(b)2. and  
 875 paragraph (3)(d) relating to the specification of the facilities  
 876 from which, or the place where, the communication is to be  
 877 intercepted do not apply if:  
 878 (a) In the case of an application with respect to the  
 879 interception of an oral communication:  
 880 1. The application is by an agent or officer of a law  
 881 enforcement agency and is approved by the Governor, the Attorney  
 882 General, the statewide prosecutor, or a state attorney.  
 883 2. The application contains a full and complete statement  
 884 as to why such specification is not practical and identifies the  
 885 person committing the offense and whose communications are to be  
 886 intercepted.  
 887 3. The judge finds that such specification is not  
 888 practical.  
 889 (b) In the case of an application with respect to a wire or  
 890 electronic communication:  
 891 1. The application is by an agent or officer of a law  
 892 enforcement agency and is approved by the Governor, the Attorney  
 893 General, the statewide prosecutor, or a state attorney.  
 894 2. The application identifies the person believed to be  
 895 committing the offense and whose communications are to be  
 896 intercepted and the applicant makes a showing that there is  
 897 probable cause to believe that the person's actions could have  
 898 the effect of thwarting interception from a specified facility  
 899 or that the person whose communications are to be intercepted

Page 31 of 44

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24-00046-21

2021144\_\_

900 has removed, or is likely to remove, himself or herself to  
 901 another judicial circuit within the state.  
 902 3. The judge finds that such showing has been adequately  
 903 made.  
 904 4. The search warrant order authorizing or approving the  
 905 interception is limited to interception only for such time as it  
 906 is reasonable to presume that the person identified in the  
 907 application is or was reasonably proximate to the instrument  
 908 through which such communication will be or was transmitted.  
 909 ~~Consistent with this paragraph, a judge of competent~~  
 910 ~~jurisdiction may authorize interception within this state,~~  
 911 ~~whether the interception is within or outside the court's~~  
 912 ~~jurisdiction, if the application for the interception makes a~~  
 913 ~~showing that some activity or conspiracy believed to be related~~  
 914 ~~to, or in furtherance of, the criminal predicate for the~~  
 915 ~~requested interception has occurred or will likely occur, or the~~  
 916 ~~communication to be intercepted or expected to be intercepted is~~  
 917 ~~occurring or will likely occur, in whole or in part, within the~~  
 918 ~~jurisdiction of the court where the order is being sought.~~  
 919 (12) If an interception of a communication is to be carried  
 920 out pursuant to subsection (11), such interception may not begin  
 921 until the facilities from which, or the place where, the  
 922 communication is to be intercepted is ascertained by the person  
 923 implementing the interception search warrant order. A provider  
 924 of wire or electronic communications service that has received a  
 925 search warrant an order as provided under paragraph (11)(b) may  
 926 petition the court to modify or quash the search warrant order  
 927 on the ground that the interception cannot be performed in a  
 928

Page 32 of 44

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24-00046-21 2021144\_\_

929 timely or reasonable fashion. The court, upon notice to the  
 930 state, shall decide such a petition expeditiously.

931 (13) Consistent with this section, a judge of competent  
 932 jurisdiction may authorize interception within this state,  
 933 whether the interception is within or outside the court's  
 934 jurisdiction, if the application for the interception makes a  
 935 showing that some activity or conspiracy believed to be related  
 936 to, or in furtherance of, the criminal predicate for the  
 937 requested interception has occurred or will likely occur, or the  
 938 communication to be intercepted or expected to be intercepted is  
 939 occurring or will likely occur, in whole or in part, within the  
 940 jurisdiction of the court where the search warrant is being  
 941 sought.

942 Section 9. Subsection (2) of section 934.10, Florida  
 943 Statutes, is amended, and subsection (1) of that section is  
 944 reenacted, to read:

945 934.10 Civil remedies.—

946 (1) Any person whose wire, oral, or electronic  
 947 communication is intercepted, disclosed, or used in violation of  
 948 ss. 934.03-934.09 shall have a civil cause of action against any  
 949 person or entity who intercepts, discloses, or uses, or procures  
 950 any other person or entity to intercept, disclose, or use, such  
 951 communications and shall be entitled to recover from any such  
 952 person or entity which engaged in that violation such relief as  
 953 may be appropriate, including:

954 (a) Preliminary or equitable or declaratory relief as may  
 955 be appropriate;

956 (b) Actual damages, but not less than liquidated damages  
 957 computed at the rate of \$100 a day for each day of violation or

24-00046-21 2021144\_\_

958 \$1,000, whichever is higher;

959 (c) Punitive damages; and

960 (d) A reasonable attorney's fee and other litigation costs  
 961 reasonably incurred.

962 (2) A good faith reliance on any of the following  
 963 constitutes a complete defense to any civil, criminal, or  
 964 administrative action arising out of such conduct under the laws  
 965 of this state:

966 (a) A ~~search warrant court order, subpoena, or legislative~~  
 967 ~~authorization as provided for in ss. 934.03-934.09;~~  
 968 (b) A request of an investigative or law enforcement  
 969 officer under s. 934.09(7);~~r~~ or

970 (c) A good faith determination that Florida or federal law,  
 971 other than 18 U.S.C. s. 2511(2)(d), ~~authorized~~ permitted the  
 972 conduct complained of

973 ~~shall constitute a complete defense to any civil or criminal, or~~  
 974 ~~administrative action arising out of such conduct under the laws~~  
 975 ~~of this state.~~

976

977 Section 10. Section 934.21, Florida Statutes, is amended to  
 978 read:

979 934.21 Unlawful access to stored communications;  
 980 penalties.—

981 (1) Except as provided in subsection (3), whoever:

982 (a) Intentionally accesses without authorization a facility  
 983 through which an electronic communication service is provided,  
 984 or

985 (b) Intentionally exceeds an authorization to access such  
 986 facility,

24-00046-21

2021144\_\_

987  
988 and thereby obtains, alters, or prevents authorized access to a  
989 wire or electronic communication while it is in electronic  
990 storage in such system shall be punished as provided in  
991 subsection (2).

992 (2) The punishment for an offense under subsection (1) is  
993 as follows:

994 (a) If the offense is committed for purposes of commercial  
995 advantage, malicious destruction or damage, or private  
996 commercial gain, the person ~~is~~:

997 1. In the case of a first offense under this subsection,  
998 commits guilty of a misdemeanor of the first degree, punishable  
999 as provided in s. 775.082, s. 775.083, or s. 934.41.

1000 2. In the case of any subsequent offense under this  
1001 subsection, commits guilty of a felony of the third degree,  
1002 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or  
1003 s. 934.41.

1004 (b) In any other case, the person commits is guilty of a  
1005 misdemeanor of the second degree, punishable as provided in s.  
1006 775.082 or s. 775.083.

1007 (3) Subsection (1) does not apply with respect to conduct  
1008 authorized:

1009 (a) By the person or entity providing a wire, an oral, or  
1010 an electronic communications service, including through cellular  
1011 phones, microphone-enabled household devices, or portable  
1012 electronic communication devices;

1013 (b) By a user of a wire, an oral, or an electronic  
1014 communications service, including through cellular phones,  
1015 microphone-enabled household devices, or portable electronic

Page 35 of 44

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24-00046-21

2021144\_\_

1016 communication devices, with respect to a communication of or  
1017 intended for that user; ~~or~~

1018 (c) In s. 934.09, s. 934.23, or s. 934.24;  
1019 (d) In chapter 933; or  
1020 (e) For accessing for a legitimate business purpose  
1021 information that is not personally identifiable or that has been  
1022 collected in a way that prevents identification of the user of  
1023 the device.

1024 Section 11. Section 934.42, Florida Statutes, is amended to  
1025 read:

1026 934.42 Mobile tracking device and location tracking  
1027 authorization.-

1028 (1) As used in this section, the term:

1029 (a) "Historical location data" means historical precise  
1030 global positioning system location data in the possession of a  
1031 provider.

1032 (b) "Mobile tracking device" means an electronic or a  
1033 mechanical device that tracks the movement of a person or an  
1034 object.

1035 (c) "Real-time location tracking" means the:

1036 1. Installation and use of a mobile tracking device on the  
1037 object to be tracked;  
1038 2. Acquisition of real-time cell-site location data; or  
1039 3. Acquisition of real-time precise global positioning  
1040 system location data.

1041 ~~(2)-(4)~~ An investigative or law enforcement officer may make  
1042 application to a judge of competent jurisdiction for a search  
1043 warrant an order authorizing or approving real-time location  
1044 tracking or the acquisition of historical location data in the

Page 36 of 44

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24-00046-21 2021144\_\_

1045 ~~possession of the provider the installation and use of a mobile~~  
1046 ~~tracking device.~~

1047 ~~(3)(2)~~ An application under subsection (2) ~~(1)~~ of this  
1048 ~~section~~ must include:

1049 (a) A statement of the identity of the applicant and the  
1050 identity of the law enforcement agency conducting the  
1051 investigation.

1052 (b) A statement setting forth a reasonable period of time  
1053 during which the mobile tracking device may be used or the  
1054 location data may be obtained in real time, not to exceed 45  
1055 days from the date on which the search warrant is issued. The  
1056 court may, for good cause, grant one or more extensions for a  
1057 reasonable period of time, not to exceed 45 days each. When  
1058 seeking historical location data, the applicant must specify a  
1059 date range for the data sought certification by the applicant  
1060 that the information likely to be obtained is relevant to an  
1061 ongoing criminal investigation being conducted by the  
1062 investigating agency.

1063 (c) A statement of the offense to which the information  
1064 likely to be obtained relates.

1065 (d) A statement as to whether it may be necessary to use  
1066 and monitor the mobile tracking device outside the jurisdiction  
1067 of the court from which authorization is being sought.

1068 ~~(4)(3)~~ Upon application made as provided under subsection  
1069 (3) (2), the court, if it finds probable cause that the  
1070 certification and finds that the statements required by  
1071 subsection (3) (2) have been made in the application, must grant  
1072 a search warrant shall enter an ex parte order authorizing real-  
1073 time location tracking or the acquisition of historical location

24-00046-21 2021144\_\_

1074 ~~data the installation and use of a mobile tracking device.~~ Such  
1075 search warrant order may authorize the location tracking use of  
1076 ~~the device~~ within the jurisdiction of the court and outside that  
1077 jurisdiction but within the State of Florida if the location  
1078 tracking device is initiated ~~installed~~ within the jurisdiction  
1079 of the court. The search warrant must command the investigative  
1080 or law enforcement officer to complete any initiation of the  
1081 location tracking or execution of the search warrant for  
1082 historical location data authorized by the search warrant within  
1083 a specified period of time not to exceed 10 calendar days.

1084 ~~(5)(4)~~ A court may not require greater specificity or  
1085 additional information beyond that which is required by law and  
1086 this section as a requisite for issuing a search warrant an  
1087 ~~order~~.

1088 (6) Within 10 days after the timeframe specified in  
1089 paragraph (3) (b) has ended, the investigative or law enforcement  
1090 officer executing a search warrant must return the search  
1091 warrant to the issuing judge. When the search warrant is  
1092 authorizing the acquisition of historical location data, the  
1093 investigative or law enforcement officer executing the search  
1094 warrant must return the search warrant to the issuing judge  
1095 within 10 days after receipt of the records. The investigative  
1096 or law enforcement officer may do so by reliable electronic  
1097 means.

1098 (7) Within 10 days after the timeframe specified in  
1099 paragraph (3) (b) has ended, the investigative or law enforcement  
1100 officer executing a search warrant must serve a copy of the  
1101 search warrant on the person who, or whose property, was  
1102 tracked. When the search warrant is authorizing the acquisition

24-00046-21

2021144\_\_

1103 of historical location data, the investigative or law  
 1104 enforcement officer executing the search warrant must serve a  
 1105 copy of the search warrant on the person whose data was obtained  
 1106 within 10 days after receipt of the records. Service may be  
 1107 accomplished by delivering a copy to the person who, or whose  
 1108 property, was tracked or whose data was obtained or by leaving a  
 1109 copy at the person's residence or usual place of abode with an  
 1110 individual of suitable age and discretion who resides at that  
 1111 location and by mailing a copy to the person's last known  
 1112 address. Upon a showing of good cause to a court of competent  
 1113 jurisdiction, the court may grant one or more postponements of  
 1114 this notice for a period of 90 days each.

1115 (8)(5) The standards established by Florida courts and the  
 1116 United States Supreme Court for the installation, use, or ~~and~~  
 1117 monitoring of mobile tracking devices and the acquisition of  
 1118 location data shall apply to the installation, use, or  
 1119 monitoring ~~and use~~ of any device and the acquisition of location  
 1120 data as authorized by this section.

1121 ~~(6) As used in this section, a "tracking device" means an~~  
 1122 ~~electronic or mechanical device which permits the tracking of~~  
 1123 ~~the movement of a person or object.~~

1124 (9) (a) Notwithstanding any other provision of this chapter,  
 1125 any investigative or law enforcement officer specially  
 1126 designated by the Governor, the Attorney General, the statewide  
 1127 prosecutor, or a state attorney acting pursuant to this chapter  
 1128 who reasonably determines that:

1129 1. An emergency exists which:

1130 a. Involves immediate danger of death or serious physical  
 1131 injury to any person or the danger of escape of a prisoner; and

24-00046-21

2021144\_\_

1132 b. Requires real-time location tracking before a search  
 1133 warrant authorizing such tracking can, with due diligence, be  
 1134 obtained; and

1135 2. There are grounds upon which a search warrant could be  
 1136 issued under this chapter to authorize such tracking,

1137  
 1138 may engage in real-time location tracking if, within 48 hours  
 1139 after the tracking has occurred or begins to occur, a search  
 1140 warrant approving the tracking is issued in accordance with this  
 1141 section.

1142 (b) In the absence of an authorizing search warrant, such  
 1143 tracking must immediately terminate when the information sought  
 1144 is obtained, when the application for the search warrant is  
 1145 denied, or when 48 hours have lapsed since the tracking began,  
 1146 whichever is earlier.

1147 Section 12. For the purpose of incorporating the amendments  
 1148 made by this act to sections 934.03 and 934.07, Florida  
 1149 Statutes, in references thereto, paragraph (b) of subsection (2)  
 1150 of section 934.22, Florida Statutes, is reenacted to read:

1151 934.22 Voluntary disclosure of customer communications or  
 1152 records.—

1153 (2) A provider described in subsection (1) may divulge the  
 1154 contents of a communication:

1155 (b) As otherwise authorized in s. 934.03(2) (a), s. 934.07,  
 1156 or s. 934.23.

1157 Section 13. For the purpose of incorporating the amendments  
 1158 made by this act to sections 934.09 and 934.21, Florida  
 1159 Statutes, in references thereto, subsections (1) and (4) of  
 1160 section 934.27, Florida Statutes, are reenacted to read:

24-00046-21

2021144\_\_

1161 934.27 Civil action: relief; damages; defenses.—  
 1162 (1) Except as provided in s. 934.23(5), any provider of  
 1163 electronic communication service, or subscriber or customer  
 1164 thereof, aggrieved by any violation of ss. 934.21-934.28 in  
 1165 which the conduct constituting the violation is engaged in with  
 1166 a knowing or intentional state of mind may, in a civil action,  
 1167 recover from the person or entity which engaged in that  
 1168 violation such relief as is appropriate.

1169 (4) A good faith reliance on any of the following is a  
 1170 complete defense to any civil or criminal action brought under  
 1171 ss. 934.21-934.28:

1172 (a) A court warrant or order, a subpoena, or a statutory  
 1173 authorization, including, but not limited to, a request of an  
 1174 investigative or law enforcement officer to preserve records or  
 1175 other evidence, as provided in s. 934.23(7).

1176 (b) A request of an investigative or law enforcement  
 1177 officer under s. 934.09(7).

1178 (c) A good faith determination that s. 934.03(3) permitted  
 1179 the conduct complained of.

1180 Section 14. For the purpose of incorporating the amendment  
 1181 made by this act to section 934.21, Florida Statutes, in a  
 1182 reference thereto, subsection (6) of section 934.23, Florida  
 1183 Statutes, is reenacted to read:

1184 934.23 Required disclosure of customer communications or  
 1185 records.—

1186 (6) No cause of action shall lie in any court against any  
 1187 provider of wire or electronic communication service, its  
 1188 officers, employees, agents, or other specified persons for  
 1189 providing information, facilities, or assistance in accordance

Page 41 of 44

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24-00046-21

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1190 with the terms of a court order, warrant, subpoena, or  
 1191 certification under ss. 934.21-934.28.

1192 Section 15. For the purpose of incorporating the amendment  
 1193 made by this act to section 934.21, Florida Statutes, in  
 1194 references thereto, subsections (6) and (7) of section 934.24,  
 1195 Florida Statutes, are reenacted to read:

1196 934.24 Backup preservation; customer notification;  
 1197 challenges by customer.—

1198 (6) Within 14 days after notice by the investigative or law  
 1199 enforcement officer to the subscriber or customer under  
 1200 subsection (2), the subscriber or customer may file a motion to  
 1201 quash the subpoena or vacate the court order seeking contents of  
 1202 electronic communications, with copies served upon the  
 1203 investigative or law enforcement officer and with written notice  
 1204 of such challenge to the service provider. A motion to vacate a  
 1205 court order must be filed in the court which issued the order. A  
 1206 motion to quash a subpoena must be filed in the circuit court in  
 1207 the circuit from which the subpoena issued. Such motion or  
 1208 application must contain an affidavit or sworn statement:

1209 (a) Stating that the applicant is a subscriber or customer  
 1210 of the service from which the contents of electronic  
 1211 communications maintained for her or him have been sought, and  
 1212 (b) Stating the applicant's reasons for believing that the  
 1213 records sought are not relevant to a legitimate law enforcement  
 1214 inquiry or that there has not been substantial compliance with  
 1215 the provisions of ss. 934.21-934.28 in some other respect.

1216 (7) Except as otherwise obtained under paragraph (3) (a),  
 1217 service must be made under this section upon an investigative or  
 1218 law enforcement officer by delivering or mailing by registered

Page 42 of 44

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24-00046-21 2021144\_\_

1219 or certified mail a copy of the papers to the person, office, or  
 1220 department specified in the notice which the subscriber or  
 1221 customer has received pursuant to ss. 934.21-934.28. For the  
 1222 purposes of this subsection, the term "delivering" shall be  
 1223 construed in accordance with the definition of "delivery" as  
 1224 provided in Rule 1.080, Florida Rules of Civil Procedure.

1225 Section 16. For the purpose of incorporating the amendment  
 1226 made by this act to section 934.21, Florida Statutes, in a  
 1227 reference thereto, subsection (5) of section 934.25, Florida  
 1228 Statutes, is reenacted to read:

1229 934.25 Delayed notice.—

1230 (5) Upon the expiration of the period of delay of  
 1231 notification under subsection (1) or subsection (4), the  
 1232 investigative or law enforcement officer must serve upon or  
 1233 deliver by registered or first-class mail to the subscriber or  
 1234 customer a copy of the process or request together with notice  
 1235 which:

1236 (a) States with reasonable specificity the nature of the  
 1237 law enforcement inquiry, and

1238 (b) Informs the subscriber or customer:

1239 1. That information maintained for such subscriber or  
 1240 customer by the service provider named in the process or request  
 1241 was supplied to or requested by the investigative or law  
 1242 enforcement officer and the date on which such information was  
 1243 so supplied or requested.

1244 2. That notification of such subscriber or customer was  
 1245 delayed.

1246 3. What investigative or law enforcement officer or what  
 1247 court made the certification or determination pursuant to which

Page 43 of 44

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24-00046-21 2021144\_\_

1248 that delay was made.

1249 4. Which provision of ss. 934.21-934.28 allowed such delay.

1250 Section 17. For the purpose of incorporating the amendment  
 1251 made by this act to section 934.21, Florida Statutes, in a  
 1252 reference thereto, section 934.28, Florida Statutes, is  
 1253 reenacted to read:

1254 934.28 Exclusivity of remedies and sanctions.—The remedies  
 1255 and sanctions described in ss. 934.21-934.27 are the only  
 1256 judicial remedies and sanctions for violation of those sections.

1257 Section 18. This act shall take effect July 1, 2021.

Page 44 of 44

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# 2021 FDLE LEGISLATIVE BILL ANALYSIS



<b>BILL INFORMATION</b>	
<b>BILL NUMBER:</b>	SB 144
<b>BILL TITLE:</b>	Searches of Cellular Phones and Other Electronic Devices
<b>BILL SPONSOR:</b>	Senator Brandes
<b>EFFECTIVE DATE:</b>	July 1, 2021

<b>COMMITTEES OF REFERENCE</b>
1) Criminal Justice
2) Judiciary
3) Rules
4)
5)

<b>CURRENT COMMITTEE</b>
Criminal Justice

<b>SIMILAR BILLS</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>PREVIOUS LEGISLATION</b>	
<b>BILL NUMBER:</b>	SB470
<b>SPONSOR:</b>	Brandes, Bracy
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	Died in Judiciary

<b>IDENTICAL BILLS</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
No

<b>BILL ANALYSIS INFORMATION</b>	
<b>DATE OF ANALYSIS:</b>	Dec 22, 2020
<b>LEAD AGENCY ANALYST:</b>	Lori Mizell
<b>ADDITIONAL ANALYST(S):</b>	Chelsea Perez, Will Bullough, Kyle Kelly, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jeff Dambly, Greg Cowsert, Jim Martin
<b>FISCAL ANALYST:</b>	Cynthia Barr

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Expanding the grounds for issuance of a search warrant to include content held within a cellular phone, portable electronic communication device or microphone-enabled household device when such content constitutes evidence relevant to proving that a felony has been committed; adopting the constitutional protection against unreasonable interception of private communications by any means for purposes of obtaining a search warrant; prohibiting the use of certain communication content in any trial, hearing or other proceeding which was obtained without a specified warrant, etc.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, law enforcement may apply for an order authorizing the interception of wire, oral or electronic communication but a warrant is required by case law. Law enforcement may also apply for an order authorizing the installation of a mobile tracking device. Law enforcement is not required to provide notification to the subject of a criminal investigation when an order to install a mobile tracking device has been obtained.
  
2. **EFFECT OF THE BILL:** Requires law enforcement to obtain a warrant instead of an order to intercept wire, oral or electronic communication. The bill changes the substantive requirements to obtain the courts' authorization and raises the burden of proof to the level of probable cause. Adds several new requirements when law enforcement seeks authorization to install a mobile tracking device or obtain location information:
  - A mobile tracking device may not be used for more than 45 days without an extension by the court.
  - A mobile tracking device must be installed by law enforcement within a specified timeframe after issuance of a warrant, not to exceed 10 calendar days.
  - Within 10 days after the use of the tracking device has ended, law enforcement must return the warrant to the issuing judge and serve a copy of the warrant to the tracked subject. The court may delay this notice for 90 days.
  - There are also provisions which allow the installation of a mobile tracking device in emergencies for 48 hours prior to an authorizing warrant.
  - Expands the definitions found in s. 934.42, FS. The definitions are more inclusive and now require a warrant for information such as historical data that is currently available by subpoena.

Provides criminal penalties if a person intentionally and unlawfully accesses stored communications data or location information without authorization.

3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y  N

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

4. **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y  N**

If yes, provide a description:	
Date Due:	
Bill Section Number:	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y  N**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y  N**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y  N**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

**TECHNOLOGY IMPACT**

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y  N**

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

**FEDERAL IMPACT**

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

<p>Issues/concerns/comments and recommended action:</p>	<ul style="list-style-type: none"> <li>• The use of the word "search warrant" in the bill may be problematic without adding a specific definition for the term. In the absence of a "specialized" definition of the term "search warrant" for purposes of Chapter 934, FS, it would likely be argued that provisions of Chapter 933, FS, Florida's primary law dealing with search warrants, also apply on top of the rigorous order process already provided by Chapter 934, FS. FDLE respectfully suggests returning the term "order" to section where no change has been made to the requirements to obtain an order. The order requirements in Chapter 934, FS, are already extensive to include probable cause and exhaustion of remedies. Changing the terminology to "search warrant" does not add any additional burden of proof to law enforcement, but instead adds additional procedural hurdles in cases where law enforcement has already met the appropriate burden of proof.</li> <li>• Lines 1098-1106 require law enforcement to serve a copy of the search warrant to the person whose property was tracked. In doing so, this also has the likelihood of compromising an ongoing investigation through early disclosure.</li> </ul>
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	<p>While lines 1112-1114 provide for a potential postponement of notification through court order, these requirements still create the possibility of damaging notification where it does not otherwise currently exist. Additionally, depending on the length of the investigation, this may become a cumbersome process to seek continuous renewals. Providing notification to a subject of a criminal investigation when using technical surveillance against them can cause investigative limitations, specifically regarding long-term investigations. Additionally, criminals would be informed of law enforcement investigative techniques used to apprehend and convict them and may begin using alternative methods to perform crimes. This concern also exists with the return of the warrant to the issuing judge. There is no mechanism to delay return of the warrant so the warrant is on file in the clerk's office.</p>
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### **ADDITIONAL COMMENTS**

- The bill eliminates law enforcement's ability to obtain content older than 180 days via a subpoena or court order. By eliminating the ability to seek content older than 180 days via a subpoena or court order, the bill removes a tool currently available to law enforcement at the beginning of an investigation when the evidence may not yet reach the level of probable cause required to obtain a search warrant. Access to content older than 180 days may help law enforcement obtain enough information to establish probable cause and obtain a search warrant for newer content.

While FDLE does not support this change, the department requests if it were to stay in the bill in its current form, certain crimes would still allow for the use of a subpoena or court order for content older than 180 days. This section of the bill would need to be offense-specific, rather than for exigent circumstances due to the fact the exigent circumstance exceptions make the assumption that there is probable cause, but that there is not enough time to obtain the required warrant. In creating the list of offenses below, FDLE attempted to limit it to crimes that involve threats of future violence:

- 775.30. Terrorism; defined; penalties;
  - 775.32. Use of military-type training provided by a designated foreign terrorist organization;
  - 775.33. Providing material support or resources for terrorism or to terrorist organizations;
  - 775.34. Membership in a designated foreign terrorist organization;
  - 775.35. Agroterrorism; penalties;
  - 784.048. Stalking; definitions; penalties (mostly concerned with Aggravated Stalking and Cyberstalking);
  - 790.163. False report concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner; penalty;
  - 836.05. Threats; extortion;
  - 836.10. Written threats to kill or do bodily injury; punishment; and
  - 836.12. Threats.
- All electronics and app providers, email services and essentially anything with an electronic presence falls under this bill. If it connects to the Internet or to a cell service, it tracks and collects data on users, including most vehicles beginning in 2008, newer Xbox devices, PlayStations, children's toys, Fitbits, etc. This will have a large impact on future legal process. Bill definitions are very expansive and may have some unintended consequences.
  - Subsection (12), line 263: the terms "communication tower" and "satellite" are duplicative of the preceding term "radio".

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2021

Meeting Date

144

Bill Number (if applicable)

Topic Searches of Cellular Phones & Other Electronic Devices

Name Jeff Pearson

Amendment Barcode (if applicable)

Job Title Chief of Police

Address 510 Cinnamon Dr

Street

Satellite Beach

City

FL

State

32937

Zip

Phone (321) 773-4400

Email jpearson@satellitebeach.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

January 26, 2021

Meeting Date

SB144

Bill Number (if applicable)

Topic Searches of Cellular Phones and Other Electronic Devices

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 S Monroe Street

Phone 850-908-0551

Street

Tallahassee

FL

32301

Email jorge@flapartners.com

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing Florida Association of Criminal Defense Lawyers (FACDL)

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

*Meeting Date*

144

*Bill Number (if applicable)*

Topic Cellphone Searches

*Amendment Barcode (if applicable)*

Name Jessica Yeary

Job Title Public Defender, 2nd Judicial Circuit

Address 301 S. Monroe St.

*Street*

Phone 850-606-1000

Tallahassee

FL

32301

Email jessica.yeary@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

26 Jan 2021  
Meeting Date

144  
Bill Number (if applicable)

Topic Cell Phones Searches

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address 200 W College Ave  
Street

Phone \_\_\_\_\_

TLH  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo ,Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** December 18, 2020

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I respectfully request that **Senate Bill # 144**, relating to Searches of Cellular Phones and Other electronic Devices, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal line extending to the right.

---

Senator Jeff Brandes  
Florida Senate, District 24

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/SB 166

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Public Records/Nonjudicial Record of the Arrest of a Minor

DATE: January 26, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Fav/CS
2.			GO	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 166 is the public records exemption linked to SB 274. This bill provides that a nonjudicial record of the arrest of a minor who has successfully completed a diversion program and is eligible for expunction is made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for specified purposes. SB 274 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including a felony offense, to apply to have the nonjudicial arrest record expunged. Additionally, SB 274 amends s. 985.126, F.S., to permit a juvenile who completed a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from the repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to pass.

This bill takes effect on the same date as SB 274 or similar legislation takes effect. SB 274 is effective on July 1, 2021.

## II. Present Situation:

### Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

### Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>10</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>12</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.<sup>14</sup> Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.<sup>15</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act<sup>16</sup> (the Act) prescribes a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup>

<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>12</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>13</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>14</sup> *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

<sup>15</sup> *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>26</sup>

### **Juvenile Diversion Program Expunction**

The exceptions to accessibility of a criminal history record do not apply if the record has been sealed<sup>27</sup> or expunged.<sup>28</sup> The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency

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<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> "Sealing of a criminal history record" means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein. Section 943.045(19), F.S.

<sup>28</sup> Section 943.053(3)(b), F.S.

having custody of the record.<sup>29</sup> The following are authorized expungement processes for the criminal history record of a juvenile:

- Juvenile diversion;<sup>30</sup>
- Automatic juvenile;<sup>31</sup> and
- Early juvenile.<sup>32</sup>

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.<sup>33</sup>

The decision to refer a juvenile to a diversion program is at the discretion of either the law enforcement officer that confronted the juvenile at the time of the incident or the state attorney that has been referred the case. While participation in a diversion program may be restricted to misdemeanor offenses, there are some programs that enable a juvenile who has committed a felony to participate. In FY 2019-20, there were 2,770 juveniles who were referred to diversion programs for felony offenses.<sup>34</sup>

After completing an eligible diversion program, a juvenile seeking to have his or her nonjudicial arrest record expunged must:

- Submit an application for diversion expunction to the FDLE.
- Submit, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that:
  - He or she has completed the diversion program;
  - The arrest was for a misdemeanor; and
  - He or she has not otherwise been charged by the state attorney with or have been found to have committed, any criminal offense or comparable ordinance violation.
- Have not, before the application for expunction, been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.<sup>35</sup>

If the juvenile meets such criteria and submits the appropriate documentation, the FDLE must expunge the nonjudicial arrest record of the juvenile.<sup>36</sup>

A criminal history record that is expunged under this section is only available to criminal justice agencies<sup>37</sup> for the purpose of determining eligibility for diversion programs, a criminal

<sup>29</sup> Criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.

<sup>30</sup> Section 943.0582, F.S.

<sup>31</sup> Section 943.0515, F.S.

<sup>32</sup> Section 943.0515(1)(b)2., F.S.

<sup>33</sup> Florida Department of Juvenile Justice, *Glossary*, available at <http://www.djj.state.fl.us/youth-families/glossary> (last accessed January 22, 2021).

<sup>34</sup> Florida Department of Juvenile Justice, *Delinquency Profile 2020, Statewide Diversion – Felony Youth*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last accessed January 22, 2021).

<sup>35</sup> Section 943.0582(3), F.S.

<sup>36</sup> Section 943.0582(3), F.S.

<sup>37</sup> “Criminal justice agency” means: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit

investigation, or making a prosecutorial decision. Records that are eligible for expunction under this section must be sealed.<sup>38</sup> A juvenile who successfully completes a diversion program for a first-time misdemeanor offense may lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record, unless the inquiry is made by a criminal justice agency for one of the purposes stated above.<sup>39</sup>

A juvenile who receives an expunction under this section is not prevented from petitioning for the expunction or sealing of a later criminal history record for human trafficking victim expunction,<sup>40</sup> court ordered expunction,<sup>41</sup> or court ordered sealing,<sup>42</sup> if the juvenile is otherwise eligible for relief under those sections.<sup>43</sup>

### III. Effect of Proposed Changes:

CS/SB 166 is the public records exemption linked to SB 274. This bill provides that the nonjudicial records of arrest of minors who have successfully completed a diversion program and are eligible for expunction are made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for specified purposes.<sup>44</sup>

SB 274 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including a felony offense, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, SB 274 amends s. 985.126, F.S., to permit a juvenile who completed a diversion program for any offense, including a felony offense or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from the repeal through reenactment by the Legislature.

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thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice. Section 942.045(11), F.S.

<sup>38</sup> Section 943.0582(2)(b), F.S.

<sup>39</sup> Section 985.126(5), F.S.

<sup>40</sup> Section 943.0583, F.S.

<sup>41</sup> Section 943.0585, F.S.

<sup>42</sup> Section 943.059, F.S.

<sup>43</sup> Section 943.0582, F.S.

<sup>44</sup> Section 943.0582(2)(b), F.S., provides that the criminal history record of a person whose record is expunged pursuant to this section must be made available only to criminal justice agencies for the purpose of: determining eligibility for diversion programs; a criminal investigation; or making a prosecutorial decision under s. 985.15, F.S.

This bill provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that:

The Legislature finds that it is a public necessity that the nonjudicial record of the arrest of a minor who successfully completed a diversion program for minors, which is sealed or expunged pursuant to s. 943.0582, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The purpose of diversion programs is to redirect youth from the justice system with opportunities for programming, rehabilitation, and restoration. This purpose will be undermined if the nonjudicial record of arrest is not confidential and exempt. The presence of a nonjudicial record of arrest of a minor who completed a diversion program can jeopardize his or her ability to obtain education, employment, and other opportunities necessary to become a productive, contributing, self-sustaining member of society. Such negative consequences are unwarranted in cases in which the minor was successfully diverted from further delinquency proceedings through the completion of a diversion program. For these reasons, the Legislature finds that it is a public necessity that the criminal history records of minors which have received an expunction due to the successful completion of a diversion program be confidential and exempt from public records requirements.

This bill takes effect on the same date as SB 274 or similar legislation takes effect. As filed, SB 274 is effective July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

###### ***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. The bill creates a public record exemption for a nonjudicial record of arrest of a juvenile who has successfully completed a diversion program that is sealed or expunged and therefore requires a two-thirds vote for final passage.

###### ***Public Necessity Statement***

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public exemption. The bill creates a public

record exemption for a nonjudicial record of arrest of a juvenile who has successfully completed a diversion program that is sealed or expunged. Section 2 of the bill provides a public necessity statement.

***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill makes confidential and exempt limited types of nonjudicial arrest records. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Indeterminate. The private sector will be subject to the cost associated with an agency making redactions in response to a public records request.

**C. Government Sector Impact:**

Indeterminate. The FDLE will incur minor costs relating to the redaction of exempt records.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 943.0582 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 26, 2021:**

The committee substitute links this bill to SB 274.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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922102

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
	.	
	.	
	.	

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The Committee on Criminal Justice (Perry) recommended the following:

**Senate Amendment**

Delete line 54  
and insert:  
SB 274 or similar legislation takes effect, if such legislation

By Senator Perry

8-00062-21

2021166\_\_

1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 943.0582, F.S.; providing an exemption from public  
 4 records requirements for a nonjudicial record of the  
 5 arrest of a minor who has successfully completed a  
 6 diversion program; providing for retroactive  
 7 application; providing for future legislative review  
 8 and repeal of the exemption; providing a statement of  
 9 public necessity; providing a contingent effective  
 10 date.

12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Subsection (5) is added to section 943.0582,  
 15 Florida Statutes, to read:

16 943.0582 Diversion program expunction.—

17 (5) A nonjudicial record of the arrest of a minor who has  
 18 successfully completed a diversion program which is sealed or  
 19 expunged under this section and which is retained by the  
 20 department is confidential and exempt from s. 119.07(1) and s.  
 21 24(a), Art. I of the State Constitution, except that the record  
 22 may be made available to criminal justice agencies only for the  
 23 purposes specified in subparagraph (2)(b)1. The exemption under  
 24 this subsection applies to records held by the department  
 25 before, on, or after July 1, 2021. This subsection is subject to  
 26 the Open Government Sunset Review Act in accordance with s.  
 27 119.15 and shall stand repealed on October 2, 2026, unless  
 28 reviewed and saved from repeal through reenactment by the  
 29 Legislature.

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

8-00062-21

2021166\_\_

30 Section 2. The Legislature finds that it is a public  
 31 necessity that the nonjudicial record of the arrest of a minor  
 32 who successfully completed a diversion program for minors which  
 33 is sealed or expunged pursuant to s. 943.0582, Florida Statutes,  
 34 be made confidential and exempt from s. 119.07(1), Florida  
 35 Statutes, and s. 24(a), Article I of the State Constitution. The  
 36 purpose of diversion programs is to redirect youth from the  
 37 justice system with opportunities for programming,  
 38 rehabilitation, and restoration. This purpose will be undermined  
 39 if the nonjudicial record of arrest is not confidential and  
 40 exempt. The presence of a nonjudicial record of arrest of a  
 41 minor who completed a diversion program can jeopardize his or  
 42 her ability to obtain education, employment, and other  
 43 opportunities necessary to become a productive, contributing,  
 44 self-sustaining member of society. Such negative consequences  
 45 are unwarranted in cases in which the minor was successfully  
 46 diverted from further delinquency proceedings through the  
 47 completion of a diversion program. For these reasons, the  
 48 Legislature finds that it is a public necessity that the  
 49 criminal history records of minors which have received an  
 50 expunction due to the successful completion of a diversion  
 51 program be confidential and exempt from public records  
 52 requirements.

53 Section 3. This act shall take effect on the same date that  
 54 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
 55 is adopted in the same legislative session or an extension  
 56 thereof and becomes a law.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

SB166

Bill Number (if applicable)

Topic SB 166

Name Niek Millar

Job Title Director of Legislative Affairs

Address Street

Phone

City State Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing AMKids, Inc.

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

*Meeting Date*

166

*Bill Number (if applicable)*

Topic Arrests of Minors

*Amendment Barcode (if applicable)*

Name Jessica Yeary

Job Title Public Defender, 2nd Judicial Circuit

Address 301 S. Monroe St.

Phone 850-606-1000

*Street*

Tallahassee

FL

32301

Email jessica.yeary@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

26 Jun 21  
Meeting Date

166  
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address 200 West College  
Street TLH

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

166  
Bill Number (if applicable)

\_\_\_\_\_  
Meeting Date

\_\_\_\_\_  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Jasmyne Henderson

Job Title Attorney

Address 1029 E. Park Avenue

Phone \_\_\_\_\_

Street

TALL FL 32308

City

State

Zip

Email jasmyne@pittmanlaw.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** January 12, 2021

---

I respectfully request that **Senate Bill #166**, relating to Public Records/Nonjudicial Record of the Arrest of a Minor, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

  
\_\_\_\_\_  
Senator Keith Perry  
Florida Senate, District 8

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: SB 206

INTRODUCER: Senator Pizzo

SUBJECT: Visiting County and Municipal Detention Facilities

DATE: January 25, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	<b>Favorable</b>
2.			CA	
3.			RC	

---

**I. Summary:**

SB 206 authorizes the following individuals to visit county and municipal detention facilities at their pleasure:

- The Governor;
- Cabinet members;
- Members of the Legislature;
- State court judges;
- State attorneys; and
- Public defenders.

The bill prohibits a county or municipal detention facility from unreasonably withholding permission to visit such facility from a person who provides sufficient evidence that he or she is a professional journalist or a writer.

The bill provides that all other persons may visit a county or municipal detention facility in accordance with the rules or regulations prescribed by the facility.

The bill is effective July 1, 2021.

**II. Present Situation:**

**County and Municipal Detention Facilities**

A county detention facility is any county jail, stockade, work camp, residential probation center, or any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor.<sup>1</sup> Sheriffs

---

<sup>1</sup> Section 951.23(1)(a), F.S.

operate the majority of county detention facilities, with counties operating the remainder.<sup>2</sup> County detention facilities house inmates who have been arrested and are awaiting trial, as well as inmates who have been convicted and sentenced to less than one year of incarceration.

The Department of Corrections (DOC) reports that approximately 51,197 inmates were incarcerated in the state's county detention facilities during the month of November 2020.<sup>3</sup>

A municipal detention facility is a city jail, stockade, prison camp, or any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of a violation of municipal laws or ordinances.<sup>4</sup>

### **Visitation of County and Municipal Detention Facilities**

Each county sheriff's office or board of county commissioners establish the visitation rules for its detention facilities. Such rules may establish visitation hours, dress codes, and admission requirements. Some facilities include exceptions to the visitation rules for private attorneys and public defenders.<sup>5</sup>

### **Visitation of State Correctional Institutions**

The following persons are authorized to visit state correctional institutions at their pleasure:

- The Governor;
- All Cabinet members;
- Members of the Legislature;
- Judges of state courts;
- State attorneys;
- Public defenders; and
- Authorized representatives of the Florida Commission on Offender Review.<sup>6</sup>

Additionally, permission to visit state correctional institutions may not be unreasonably withheld from those who provide the DOC sufficient evidence that they are bona fide reporters or writers.<sup>7</sup>

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<sup>2</sup> For example, the county commissions operate the county detention facilities in Escambia, Gulf, Jackson, Miami-Dade, Okaloosa, Orange, Osceola, and Volusia counties (see <https://myescambia.com/our-services/corrections/community-detention>; [http://www.gulfcounty-fl.gov/county\\_government/detention\\_facility](http://www.gulfcounty-fl.gov/county_government/detention_facility); <https://jacksoncountyfl.gov/services/correctional-facility/>; <https://www.miamidade.gov/global/corrections/home.page>; <http://www.co.okaloosa.fl.us/corrections/history>; [http://www.ocfl.net/tabid/367/default.aspx#.X\\_MzJthKiU1](http://www.ocfl.net/tabid/367/default.aspx#.X_MzJthKiU1); <https://www.osceola.org/agencies-departments/corrections/about/>; and <https://www.volusia.org/services/public-protection/corrections/>; respectively (last visited January 21, 2021)).

<sup>3</sup> Department of Corrections, *Florida County Detention Facilities Average Inmate Population*, November 2020, p. 2, available at <http://www.dc.state.fl.us/pub/jails/2020/jails-2020-11.pdf> (last visited January 21, 2021).

<sup>4</sup> Section 951.23(1)(d), F.S.

<sup>5</sup> For example, see Nassau County Sheriff's Office, *Jail Visitation*, available at <https://nassauso.com/corrections/jail-visitiation/> (last visited January 21, 2021); and Broward County Sheriff's Office, *Attorney Information*, available at <https://www.sheriff.org/DOD/Pages/Attorney-Info.aspx> (last visited January 21, 2021). Also many facilities have adjusted their in-person visitation policies to mitigate risks associated with the coronavirus.

<sup>6</sup> Section 944.23, F.S.

<sup>7</sup> *Id.*

Any other persons seeking to enter a state correctional institution may only do so in accordance with the rules prescribed by the DOC.

### **Visitation of State Juvenile Facilities**

In 2018, the Legislature authorized the following individuals to visit all facilities housing juveniles that are operated or overseen by the Department of Juvenile Justice (DJJ) or a county, at their pleasure, between the hours of 6 a.m. and 11 p.m.:

- The Governor;
- A Cabinet member;
- A member of the Legislature;
- A judge of a state court;
- A state attorney;
- A public defender; and
- A person authorized by the secretary of the DJJ.<sup>8</sup>

If one of the individuals listed above seeks to visit a state juvenile facility before 6:00 a.m. or after 11:00 p.m., a request for an after-hours tour must be submitted to and be approved by the Assistant Secretary for Detention at least 14 days prior to the tour.<sup>9</sup> Such individuals on an after-hours tour may not access areas in which youth are sleeping.<sup>10</sup>

The DJJ may not unreasonably withhold permission to visit a state facility housing juveniles from a person who provides sufficient evidence that he or she is a bona fide reporter or writer.

### **III. Effect of Proposed Changes:**

The bill authorizes the following persons to visit county detention facilities, at their pleasure:

- The Governor;
- Cabinet members;
- Members of the Legislature;
- State court judges;
- State attorneys; and
- Public defenders.

A person who is not otherwise authorized by law may not enter a county or municipal detention facility except as provided in the rules or regulations provided by such facility.

The bill also prohibits a county or municipal facility from withholding permission to visit the facility if the person is a professional journalist, as defined in s. 90.5015, F.S., or a writer.<sup>11</sup>

---

<sup>8</sup> Chapter 2018-47, s. 1, L.O.F. (creating s. 985.6885, F.S., effective July 1, 2018).

<sup>9</sup> Rule 63G-2.023(9)(k), F.A.C.

<sup>10</sup> *Id.*

<sup>11</sup> Section 90.5015, F.S., defines “professional journalist” as a person regularly engaged in collecting, photographing, recording, writing, editing, reporting, or publishing news, for gain or livelihood, who obtained the information sought while working as a salaried employee of, or independent contractor for, a newspaper, news journal, news agency, press association, wire service, radio or television station, network, or news magazine. Book authors and others are not professional journalists and are not included in this provision.

The bill is effective July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 951.225 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Pizzo

38-00337-21

2021206\_\_

1 A bill to be entitled  
 2 An act relating to visiting county and municipal  
 3 detention facilities; creating s. 951.225, F.S.;  
 4 authorizing specified persons to visit at their  
 5 pleasure county and municipal detention facilities;  
 6 prohibiting persons not otherwise authorized by law  
 7 from entering such facilities; providing exceptions;  
 8 prohibiting the unreasonable withholding of permission  
 9 to enter such facilities from professional journalists  
 10 or writers; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Section 951.225, Florida Statutes, is created to  
 15 read:

16 951.225 Persons authorized to visit county and municipal  
 17 detention facilities.-

18 (1) All of the following persons are authorized to visit at  
 19 their pleasure any county or municipal detention facility:

20 (a) The Governor.

21 (b) Cabinet members.

22 (c) Members of the Legislature.

23 (d) State court judges.

24 (e) State attorneys.

25 (f) Public defenders.

26 (2) A person not otherwise authorized by law may not enter  
 27 a county or municipal detention facility except under such rules  
 28 or regulations as the county and municipal detention facilities  
 29 may prescribe. Permission may not be unreasonably withheld from

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

38-00337-21

2021206\_\_

30 a person who gives sufficient evidence to the facility that he  
 31 or she is a professional journalist, as defined in s. 90.5015,  
 32 or a writer.

33 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

*Meeting Date*

206

*Bill Number (if applicable)*

Topic Visiting Detention Centers

*Amendment Barcode (if applicable)*

Name Jessica Yeary

Job Title Public Defender, 2nd Judicial Circuit

Address 301 S. Monroe St.

Phone 850-606-1000

*Street*

Tallahassee

FL

32301

Email jessica.yeary@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/SB 234

INTRODUCER: Criminal Justice Committee and Senators Book and Bradley

SUBJECT: Registration of Sexual Predators and Sexual Offenders

DATE: January 28, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Fav/CS
2.			JU	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 234 clarifies release from conviction sanctions for sexual offender reporting and registration purposes. Currently, an offender who has been released on or after October 1, 1997, from the sanction imposed for any conviction for a qualifying sexual offense must register as a sexual offender. The law specifies that a “sanction” includes a fine. A Florida appellate court recently affirmed a trial court order granting dismissal of charges against an offender for failing to report quarterly as a sexual offender because the offender’s sentence included a fine which had not been paid.

The bill provides that an offender who has been released on or after October 1, 1997, from a sanction imposed for any conviction for a qualifying sexual offense and who does not otherwise meet the criteria for registration under ch. 944, F.S., or ch. 985, F.S., must register as a sexual offender. The bill also amends the definition of “sanction” to exclude fines and provides that if no sanction is imposed the person is deemed to be released upon conviction. The effect of these changes is that an outstanding fine cannot serve as the basis for barring sexual offender registration.

The bill also does all of the following:

- Amends the definitions of “permanent residence,” “temporary residence,” and “transient residence” to clarify how days are calculated for purposes of those definitions.
- Authorizes sexual predators and sexual offenders to report vehicle information changes to the Florida Department of Law Enforcement’s (FDLE’s) online system.

- Authorizes sexual predators and sexual offenders to report specified registration information through an authorized alternate method as provided by the Department of Highway Safety and Motor Vehicles (DHSMV).
- Clarifies a registration requirement relating to the timing of reporting of a change of residence to another state or jurisdiction or international travel.
- Specifies that failure to report intended travel is punishable as provided.
- Creates a process for a person to petition for relief from registration if the person's requirement to register is based solely upon a requirement to register in another state for an offense that is not similar to an offense requiring registration in this state and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only.

According to the FDLE, the bill should not have a fiscal impact on the department. Although the bill authorizes sexual predators and sexual offenders to report specified registration information through an authorized alternate method as provided by the DHSMV, it does not require the DHSMV to create this alternate method. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2021.

## II. Present Situation:

### Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.<sup>1</sup> The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes<sup>2</sup> and are implemented through the combined efforts of the FDLE, all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the DHSMV, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;<sup>3</sup>
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>4</sup>

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<sup>1</sup> Sections 775.21 and 943.0435, F.S.

<sup>2</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

<sup>3</sup> Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

<sup>4</sup> Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.<sup>5</sup>

Requirements for registration and reregistration are similar for sexual predators and sexual offenders, but the frequency of reregistration may differ.<sup>6</sup> Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under the DOC's or the DJJ's supervision, or in a residential commitment program under the DJJ.

Sexual predators and sexual offenders are required to report at registration and reregistration certain information, including but not limited to, physical characteristics, relevant sex offense history, and information on residence, vehicles/vessels owned, and travel. The FDLE, through its agency website, provides a searchable database that includes some of this information.<sup>7</sup> Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

### ***State v. James: Interpreting Release from Conviction Sanctions for Sexual Offender Reporting and Registration Purposes***

Recently, in *State v. James*,<sup>8</sup> the Florida Second District Court of Appeals upheld and affirmed a trial court order granting dismissal of charges against offender Ray La Vel James for failing to report quarterly as a sexual offender. James was sentenced to 15 years in state prison and a \$10,000 fine for a conviction for attempted lewd molestation. After James was released from prison, the State filed a two-count information charging James with failing to report in person quarterly to register as a sexual offender. James moved to dismiss the information, arguing that he was not required to register and report, notwithstanding his release from prison, because his

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<sup>5</sup> Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

<sup>6</sup> All sexual predators, sexual offenders convicted for offenses specified in s. 943.0435(14)(b), F.S., and juvenile sexual offenders required to register per s. 943.0435(1)(h)1.d., F.S., for certain offenses must reregister four times per year (on the birth month of the sexual predator or qualifying sexual offender and every third month thereafter). Sections 775.21(8)(a), 943.0435(14)(b), 944.607(13)(a), and 985.4815(13)(a), F.S. All other sexual offenders are required to reregister two times per year (on the birth month of the qualifying sexual offender and during the sixth month following the sexual offender's birth month). Section 943.0435(14)(a), F.S.

<sup>7</sup> The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. See <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on Jan. 26, 2021).

<sup>8</sup> *State v. James*, 298 So.3d 90 (Fla. 2d DCA 2020).

\$10,000 fine had not yet been released or discharged. The trial court agreed and dismissed the charges. The State appealed this dismissal.

Currently, s. 943.0435(1)(h)1.a.(II), F.S., provides that a sexual offender who has been released on or after a specified date from the sanction imposed for any conviction of an offense described in s. 943.0435(1)(h)1.a.(I), F.S., is required to register as a sexual offender in Florida. Section 943.0435(1)(h)1.a.(II), F.S., also defines a sanction as including, but not limited to, "... a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility."

The State conceded and the appellate court found that James was not released from his \$10,000 fine and the fine remained outstanding. However, the State argued that the statute did not require James to be released from both incarceration *and* the fine to qualify as a sexual offender. The appellate court rejected this argument, finding that the plain language of the statute did not accord with the State's interpretation of the language. The court held that since James had not completed his \$10,000 fine, "his sanction, as a whole, has not been released and he does not qualify as a 'sexual offender' for purposes of reporting and registration under section 943.0435."<sup>9</sup>

### **Residence Definitions**

Section 775.21, F.S., defines the terms "permanent residence," "temporary residence," and "transient residence" for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions.<sup>10</sup>

"Permanent residence" means a place where the person abides, lodges, or resides for 3 or more consecutive days.<sup>11</sup>

"Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.<sup>12</sup>

"Transient residence" means a county where a person lives, remains, or is located for a period of 3 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.<sup>13</sup>

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<sup>9</sup> *State v. James, supra*, at p.3.

<sup>10</sup> Sections 775.21(2)(k), (n), and (o) and 943.0435(1)(f), F.S.

<sup>11</sup> Section 775.21(2)(k), F.S.

<sup>12</sup> Section 775.21(2)(n), F.S.

<sup>13</sup> Section 775.21(2)(o), F.S.

### **FDLE's Online System**

The FDLE is required to establish an online system through which sexual predators and sexual offenders may securely access, submit, and update all electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.<sup>14</sup>

A sexual predator or sexual offender must register all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, with the FDLE through the FDLE's online system or in person at the sheriff's office within 48 hours after using such electronic mail addresses and Internet identifiers. If the sexual predator or sexual offender is in the custody or control, or under the supervision, of the DOC, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the DOC before using such electronic mail addresses or Internet identifiers. If the sexual predator or sexual offender is in the custody or control, or under the supervision, of the DJJ, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the DJJ before using such electronic mail addresses or Internet identifiers.<sup>15</sup>

A sexual predator or sexual offender must register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education in the same manner previously described.<sup>16</sup>

Currently, the law does not specify that a sexual predator and sexual offender may report changes to vehicles owned through FDLE's online system. The FDLE notes that "[c]urrent law requires sexual offenders and predators to report in-person to the sheriff's office within 48 hours after any change in vehicle owned. While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has created a significant burden."<sup>17</sup> Further, according to the FDLE, "[a]llowing registrants the option to report their vehicle information and address changes online will facilitate faster access to this critical information and reduce the impact on sheriff's offices."<sup>18</sup>

### **Reporting when Driver License or State Identification is Renewed and Reporting Change of Residence or Name**

Within 48 hours after initial registration with the sheriff's office, a sexual predator or sexual offender who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the DOC, must register in person at a driver license office of the

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<sup>14</sup> Sections 775.21(6)(g)5.c. and 943.0435(4)(e)3., F.S.

<sup>15</sup> Sections 775.21(6)(g)5.a. and 943.0435(4)(e)1., F.S.

<sup>16</sup> Sections 775.21(6)(g)5.b. and 943.0435(4)(e)2., F.S.

<sup>17</sup> *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Committee on Criminal Justice).

<sup>18</sup> *Id.*

DHSMV and present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3), F.S., was previously secured or updated under s. 944.607, F.S.<sup>19</sup>

At the driver license office the sexual predator or sexual offender must do all of the following:

- If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card.
- Identify himself or herself as a sexual predator or sexual offender who is required to register, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the FDLE in maintaining current records of sexual predators. (There are registration requirements for other places of residence such as mobile homes and vessels.)
- Pay the costs assessed by the DHSMV for issuing or renewing a driver license or an identification card.
- Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.<sup>20</sup>

Each time a sexual predator's or sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the predator's or offender's driver license or identification card, within 48 hours after any change of the predator's or offender's residence or change in the predator's or offender's name by reason of marriage or other legal process, the predator or offender must report in person to a driver license office and is subject to the requirements previously described. The DHSMV must forward to the FDLE and the DOC all photographs and information provided by sexual predators or sexual offenders.<sup>21</sup>

A sexual predator or sexual offender who is unable to secure or update a driver license or an identification card with the DHSMV as previously described must also report any change of the predator's or offender's residence or change in the predator's or offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the DHSMV. These reporting requirements do not negate the requirement for a sexual predator or sexual offender to obtain a Florida driver license or identification card.<sup>22</sup>

### **Reporting Residence in Another State or Jurisdiction and Travel**

A sexual predator or sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than Florida must report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual predator or sexual offender 21 days

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<sup>19</sup> Section 775.021(6)(f) and 943.0435(3), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Sections 775.021(6)(g)1. and 943.0435(4), F.S.

<sup>22</sup> *Id.*

before the departure date must be reported to the sheriff's office as soon as possible before departure.<sup>23</sup>

The sexual predator or sexual offender must provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator or sexual offender must also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel.<sup>24</sup>

The sheriff must promptly provide to the FDLE the information received from the sexual predator or sexual offender. The FDLE must notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's or sexual offender's intended residence. The failure of a sexual predator or sexual offender to provide his or her intended place of residence is a third degree felony.<sup>25</sup>

A sexual predator or sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than Florida, or another country and later decides to remain in this state must, within 48 hours after the date upon which the sexual predator or sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual predator or sexual offender reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator or sexual offender that he or she intends to remain in this state, the sheriff must promptly report this information to the FDLE. A sexual predator or sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than Florida, or another country, but who remains in this state without reporting to the sheriff as previously described commits a second degree felony.<sup>26</sup>

### **Sexual Offender Registration Based on Out-of-State Conviction for Offense Not Similar to Florida Offense Requiring Registration and Not Public in Other State**

As previously noted, for purposes of sexual offender registration, the definition of "sexual offender" includes, but is not limited to, a person who establishes or maintains a residence in Florida and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender.<sup>27</sup>

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<sup>23</sup> Sections 775.21(6)(i) and 943.0435(7), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* A third degree felony is punishable by up to 5 years in state prison and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>26</sup> Sections 775.21(6)(j) and (10) and 943.0435(8), F.S. A second degree felony is punishable by up to 15 years in state prison and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>27</sup> Section 943.0435(1)(h)1.b., F.S.

According to the FDLE, the criteria previously described apply to a person “based solely upon a requirement to register in another state for an offense that is *not* similar to a conviction offense requiring registration in Florida and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only.”<sup>28</sup>

The FDLE has indicated concerns about the application of these criteria to such person. “As Florida does not have a non-public registry, such an individual’s registration information would be publicly available. From an equal protection standpoint, these circumstances may be found objectionable by the courts as the current laws treat similarly situated persons convicted in Florida differently than those convicted in other states. Not correcting this issue increases the risk that a court’s decision could impact the entire registry.”<sup>29</sup>

### III. Effect of Proposed Changes:

The bill, *which takes effect on October 1, 2021*, amends s. 775.21, F.S. (sexual predator registration) and s. 943.0435, F.S. (sexual offender registration). The bill also reenacts numerous laws that reference these two statutes.<sup>30</sup>

#### **Clarifying Release from Conviction Sanctions for Sexual Offender Reporting and Registration Purposes**

The bill amends s. 943.0435, F.S., to clarify release from conviction sanctions for sexual offender reporting and registration purposes. Currently, an offender who has been released on or after October 1, 1997, from the sanction imposed for any conviction for a qualifying sexual offense must register as a sexual offender. The law specifies that a “sanction” includes a fine.<sup>31</sup> A Florida appellate court recently affirmed a trial court order granting dismissal of charges against an offender for failing to report quarterly as a sexual offender because the offender’s sentence included a fine which had not been paid.<sup>32</sup>

The bill provides that an offender who has been released on or after October 1, 1997, from a sanction imposed for any conviction for a qualifying sexual offense and who does not otherwise meet the criteria for registration under ch. 944, F.S., or ch. 985, F.S., must register as a sexual offender.<sup>33</sup> The bill also amends the definition of “sanction” to exclude fines and provides that if no sanction is imposed the person is deemed to be released upon conviction. The effect of these changes is that an outstanding fine cannot serve as the basis for barring sexual offender registration.

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<sup>28</sup> *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Committee on Criminal Justice).

<sup>29</sup> *Id.*

<sup>30</sup> See “Statutes Affected” section of this analysis for a list of the reenacted statutes.

<sup>31</sup> Section s. 943.0435(1)(h)1.a.(II), F.S.

<sup>32</sup> See “Present Situation” section of this analysis for a discussion of the case.

<sup>33</sup> Chapter 944, F.S., in part, deals with registration of sexual offenders in DOC custody or control, under DOC supervision, or in the custody of a private correctional facility. See ss. 944.606 and 944.607, F.S. Chapter 985, F.S., in part, deals with registration of sexual offenders in DJJ care or custody, under DJJ jurisdiction or supervision, or in the custody of a private correctional facility. See ss. 985.481 and 985.4815, F.S.

Currently, the statute has been interpreted by one appellate court<sup>34</sup> to not require an offender to report and register as a sexual offender for a qualifying offense if the offender has an outstanding fine, even if the offender has been released from the incarcerative portion of his or her sentence.<sup>35</sup> Under the bill, an offender with an outstanding financial obligation is required to report and register as a sexual offender for a qualifying offense.

### **Amending Residence Definitions to Clarify Calculation of Days**

The bill amends s. 775.21, F.S., to clarify the calculation of days in regard to definitions of the terms “permanent residence,” “temporary residence,” and “transient residence” for the purpose of reporting residence information. Section 943.0435, F.S., also uses these definitions. The following language is added to the definitions of “permanent residence” and “temporary residence”:

In calculating days for [“permanent residence” and “temporary residence”], the first day a person abides, lodges, or resides at a place is excluded. Each day following the first day is counted. A day includes any part of a calendar day.

The following language is added to the definition of “temporary residence”:

In calculating days for “transient residence,” the first day a person lives, remains, or is located in a county is excluded. Each day following the first day is counted. A day includes any part of a calendar day.

### **Authorizing Sexual Predators and Sexual Offenders to Report Vehicle Information Changes to the FDLE’s Online System**

The bill amends ss. 775.21 and 943.0435, F.S., to authorize sexual predators and sexual offenders to report vehicle information changes to the FDLE’s online system. Currently, this information is reported to sheriff’s offices, so the addition of another reporting mechanism will reduce the impact on sheriff’s offices to process this information.<sup>36</sup>

### **Authorizing Sexual Predators and Sexual Offenders to Report Specified Registration Information through a DHSMV-Authorized Alternate Method**

The bill amends ss. 775.21 and 943.0435, F.S., to authorize sexual predators and sexual offenders to report specified registration information through an authorized alternate method as provided by the DHSMV. Currently, this information is reported at a driver license office each time a sexual predator’s or sexual offender’s driver license or identification card is subject to renewal, and within 48 hours after any change of the predator’s or offender’s residence or change in the predator’s or offender’s name by reason of marriage or other legal process.<sup>37</sup>

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<sup>34</sup> See footnote 8, *supra*.

<sup>35</sup> See “Present Situation” section of this analysis for a discussion of the case.

<sup>36</sup> See “Present Situation” section of this analysis.

<sup>37</sup> *Id.*

### **Clarifying a Registration Requirement Relating to the Timing of Reporting of a Change of Residence to Another State or Jurisdiction or International Travel**

The bill amends ss. 775.21 and 943.0435, F.S., to clarify a registration requirement relating to the timing of reporting of a change of residence to another state or international travel. The bill specifies the registrant must report in person to the sheriff of the county of current residence *at least* 48 hours before the date he or she intends to leave Florida to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel outside of the United States. Any travel that is not known by a registrant *at least 48 hours before he or she intends to establish a residence in another state or jurisdiction* or 21 days before the departure date *for travel outside of the United States* must be reported to the sheriff's office as soon as possible before departure.

Currently, the registrant must report in person to the sheriff of the county of current residence *within* 48 hours before the date he or she intends to leave Florida to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel *if the intended residence of 5 days or more* is outside of the United States. Any travel that is not known by a registrant 21 days before the departure date must be reported to the sheriff's office as soon as possible before departure.<sup>38</sup>

The bill also specifies that the FDLE must report intended travel to law enforcement in the destination jurisdiction. Currently, the law only requires the FDLE to report intended residence to such law enforcement.<sup>39</sup>

### **Specifying that Failure to Report Intended Travel is Punishable as Provided**

The bill amends ss. 775.21 and 943.0435, F.S., to specify that failure to report intended travel is punishable as a third degree felony. Currently, such failure would be covered under language that punishes a sexual predator or sexual offender who doesn't comply with the requirements of s. 775.21, F.S., or s. 943.0435, F.S., as applicable.<sup>40</sup>

### **Creating a Process for Removing Registration Requirements for Certain Sexual Offenders with Out-of-State Convictions**

The bill amends s. 943.0435, F.S., to create a process for a person to petition for relief from registration if the person's requirement to register is based solely upon a requirement to register in another state for an offense that is not similar to an offense requiring registration in this state and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only.

As previously noted, the FDLE has indicated concerns about the application of these criteria to such person. "As Florida does not have a non-public registry, such an individual's registration information would be publicly available. From an equal protection standpoint, these circumstances may be found objectionable by the courts as the current laws treat similarly

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *See* ss. 775.21(10) and 943.0435(9)(a), F.S.

situated persons convicted in Florida differently than those convicted in other states. Not correcting this issue increases the risk that a court's decision could impact the entire registry."<sup>41</sup>

The person previously described must file a petition in the circuit court in the jurisdiction in which the person resides or, for a person who no longer resides in this state, the court in the jurisdiction in which the person last resided in Florida. The petition must assert that his or her designation as a sexual predator or sexually violent predator or any other sexual offender designation in the state or jurisdiction in which the designation was made is confidential from public disclosure or that such designation, if not imposed by a court, is considered confidential from public disclosure by operation of law or court order in the state or jurisdiction requiring registration, provided that such person does not meet the criteria for registration as a sexual offender under Florida law. If the person meets the criteria previously described, the court may grant the petition and remove the requirement to register as a sexual offender.

The petition must document the person's conviction and include a copy of the order issued by the court in the state or jurisdiction which made the designation confidential from public disclosure. If the confidential status was not granted by court order, the person must demonstrate to the court that his or her registration requirement has been made confidential by operation of law in the state or jurisdiction requiring registration. The state attorney and the FDLE must be given notice at least 21 days before the date of the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why it should be denied.

If a person provides to the FDLE a certified copy of the circuit court's order granting the person's removal of the requirement to register as a sexual offender in Florida in accordance with the requirements previously described, the registration requirement does not apply to the person and the FDLE must remove all information about the person from the public registry of sexual offenders and sexual predators maintained by the FDLE.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>41</sup> *Registry Amendments – Talking Points*, Florida Department of Law Enforcement (on file with the Committee on Criminal Justice).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the FDLE, the bill should not have a fiscal impact on the department.<sup>42</sup> Although the bill authorizes sexual predators and sexual offenders to report specified registration information through an authorized alternate method as provided by the DHSMV, it does not require the DHSMV to create this alternate method.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 775.21 and 943.0435.

This bill reenacts the following sections of the Florida Statutes: 61.13, 68.07, 98.0751, 320.02, 322.141, 322.19, 394.9125, 397.487, 435.07, 775.0862, 775.13, 775.21, 775.24, 775.25, 775.261, 794.056, 900.05, 903.046, 903.133, 907.043, 921.0022, 938.085, 938.10, 943.0435, 943.0436, 943.0584, 944.606, 944.607, 944.609, 948.06, 948.063, 948.31, 985.04, 985.481, 985.4815, 1012.467.

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<sup>42</sup> *Id.*

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 26, 2021:**

The Committee Substitute:

- Substantially rewords a provision that clarifies release from conviction sanctions for sexual offender reporting and registration purposes so that an offender with an outstanding financial obligation is required to report and register as a sexual offender for a qualifying offense.
- Amends the definitions of “permanent residence,” “temporary residence,” and “transient residence” to clarify how days are calculated for purposes of those definitions.
- Authorizes sexual predators and sexual offenders to report vehicle information changes to the FDLE’s online system.
- Authorizes sexual predators and sexual offenders to report specified registration information through an authorized alternate method as provided by the DHSMV.
- Clarifies a registration requirement relating to the timing of reporting of a change of residence to another state or jurisdiction or international travel.
- Specifies that failure to report intended travel is punishable as provided.
- Creates a process for a person to petition for relief from registration if the person’s requirement to register is based solely upon a requirement to register in another state for an offense that is not similar to an offense requiring registration in this state and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only.

- B. **Amendments:**

None.



954436

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
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The Committee on Criminal Justice (Book) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (k), (n), and (o) of subsection (2)  
and paragraphs (a), (g), and (i) of subsection (6) of section  
775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.—

(2) DEFINITIONS.—As used in this section, the term:

(k) "Permanent residence" means a place where the person



954436

11 abides, lodges, or resides for 3 or more consecutive days. In  
12 calculating days for "permanent residence," the first day a  
13 person abides, lodges, or resides at a place shall be excluded.  
14 Each day following the first day shall be counted. A day  
15 includes any part of a calendar day.

16 (n) "Temporary residence" means a place where the person  
17 abides, lodges, or resides, including, but not limited to,  
18 vacation, business, or personal travel destinations in or out of  
19 this state, for a period of 3 or more days in the aggregate  
20 during any calendar year and which is not the person's permanent  
21 address or, for a person whose permanent residence is not in  
22 this state, a place where the person is employed, practices a  
23 vocation, or is enrolled as a student for any period of time in  
24 this state. In calculating days for "temporary residence," the  
25 first day a person abides, lodges, or resides at a place shall  
26 be excluded. Each day following the first day shall be counted.  
27 A day includes any part of a calendar day.

28 (o) "Transient residence" means a county where a person  
29 lives, remains, or is located for a period of 3 or more days in  
30 the aggregate during a calendar year and which is not the  
31 person's permanent or temporary address. The term includes, but  
32 is not limited to, a place where the person sleeps or seeks  
33 shelter and a location that has no specific street address. In  
34 calculating days for "transient residence," the first day a  
35 person lives, remains, or is located in a county shall be  
36 excluded. Each day following the first day shall be counted. A  
37 day includes any part of a calendar day.

38 (6) REGISTRATION.—

39 (a) A sexual predator shall register with the department



954436

40 through the sheriff's office by providing the following  
41 information to the department:

42 1. Name; social security number; age; race; sex; date of  
43 birth; height; weight; tattoos or other identifying marks; hair  
44 and eye color; photograph; address of legal residence and  
45 address of any current temporary residence, within the state or  
46 out of state, including a rural route address and a post office  
47 box; if no permanent or temporary address, any transient  
48 residence within the state; address, location or description,  
49 and dates of any current or known future temporary residence  
50 within the state or out of state; electronic mail addresses;  
51 Internet identifiers and each Internet identifier's  
52 corresponding website homepage or application software name;  
53 home telephone numbers and cellular telephone numbers;  
54 employment information; the make, model, color, vehicle  
55 identification number (VIN), and license tag number of all  
56 vehicles owned; date and place of each conviction; fingerprints;  
57 palm prints; and a brief description of the crime or crimes  
58 committed by the offender. A post office box may not be provided  
59 in lieu of a physical residential address. The sexual predator  
60 shall produce his or her passport, if he or she has a passport,  
61 and, if he or she is an alien, shall produce or provide  
62 information about documents establishing his or her immigration  
63 status. The sexual predator shall also provide information about  
64 any professional licenses he or she has.

65 a. Any change that occurs after the sexual predator  
66 registers in person at the sheriff's office as provided in this  
67 subparagraph in any of the following information related to the  
68 sexual predator must be reported as provided in paragraphs (g),



69 (i), and (j): permanent, temporary, or transient residence;  
70 name; electronic mail addresses; Internet identifiers and each  
71 Internet identifier's corresponding website homepage or  
72 application software name; home and cellular telephone numbers;  
73 employment information; and status at an institution of higher  
74 education.

75 b. If the sexual predator's place of residence is a motor  
76 vehicle, trailer, mobile home, or manufactured home, as defined  
77 in chapter 320, the sexual predator shall also provide to the  
78 department written notice of the vehicle identification number;  
79 the license tag number; the registration number; and a  
80 description, including color scheme, of the motor vehicle,  
81 trailer, mobile home, or manufactured home. If a sexual  
82 predator's place of residence is a vessel, live-aboard vessel,  
83 or houseboat, as defined in chapter 327, the sexual predator  
84 shall also provide to the department written notice of the hull  
85 identification number; the manufacturer's serial number; the  
86 name of the vessel, live-aboard vessel, or houseboat; the  
87 registration number; and a description, including color scheme,  
88 of the vessel, live-aboard vessel, or houseboat.

89 c. If the sexual predator is enrolled or employed, whether  
90 for compensation or as a volunteer, at an institution of higher  
91 education in this state, the sexual predator shall also provide  
92 to the department the name, address, and county of each  
93 institution, including each campus attended, and the sexual  
94 predator's enrollment, volunteer, or employment status. The  
95 sheriff, the Department of Corrections, or the Department of  
96 Juvenile Justice shall promptly notify each institution of  
97 higher education of the sexual predator's presence and any



954436

98 change in the sexual predator's enrollment, volunteer, or  
99 employment status.

100 d. A sexual predator shall report to the department through  
101 the department's online system or in person to the sheriff's  
102 office within 48 hours after any change in vehicles owned to  
103 report those vehicle information changes.

104 2. Any other information determined necessary by the  
105 department, including criminal and corrections records;  
106 nonprivileged personnel and treatment records; and evidentiary  
107 genetic markers when available.

108 (g)1. Each time a sexual predator's driver license or  
109 identification card is subject to renewal, and, without regard  
110 to the status of the predator's driver license or identification  
111 card, within 48 hours after any change of the predator's  
112 residence or change in the predator's name by reason of marriage  
113 or other legal process, the predator shall report in person to a  
114 driver license office, or through an authorized alternate method  
115 as provided by the Department of Highway Safety and Motor  
116 Vehicles, and is subject to the requirements specified in  
117 paragraph (f). The Department of Highway Safety and Motor  
118 Vehicles shall forward to the department and to the Department  
119 of Corrections all photographs and information provided by  
120 sexual predators. Notwithstanding the restrictions set forth in  
121 s. 322.142, the Department of Highway Safety and Motor Vehicles  
122 may release a reproduction of a color-photograph or digital-  
123 image license to the Department of Law Enforcement for purposes  
124 of public notification of sexual predators as provided in this  
125 section. A sexual predator who is unable to secure or update a  
126 driver license or an identification card with the Department of



954436

127 Highway Safety and Motor Vehicles as provided in paragraph (f)  
128 and this paragraph shall also report any change of the  
129 predator's residence or change in the predator's name by reason  
130 of marriage or other legal process within 48 hours after the  
131 change to the sheriff's office in the county where the predator  
132 resides or is located and provide confirmation that he or she  
133 reported such information to the Department of Highway Safety  
134 and Motor Vehicles. The reporting requirements under this  
135 subparagraph do not negate the requirement for a sexual predator  
136 to obtain a Florida driver license or identification card as  
137 required by this section.

138       2.a. A sexual predator who vacates a permanent, temporary,  
139 or transient residence and fails to establish or maintain  
140 another permanent, temporary, or transient residence shall,  
141 within 48 hours after vacating the permanent, temporary, or  
142 transient residence, report in person to the sheriff's office of  
143 the county in which he or she is located. The sexual predator  
144 shall specify the date upon which he or she intends to or did  
145 vacate such residence. The sexual predator shall provide or  
146 update all of the registration information required under  
147 paragraph (a). The sexual predator shall provide an address for  
148 the residence or other place that he or she is or will be  
149 located during the time in which he or she fails to establish or  
150 maintain a permanent or temporary residence.

151       b. A sexual predator shall report in person at the  
152 sheriff's office in the county in which he or she is located  
153 within 48 hours after establishing a transient residence and  
154 thereafter must report in person every 30 days to the sheriff's  
155 office in the county in which he or she is located while



954436

156 maintaining a transient residence. The sexual predator must  
157 provide the addresses and locations where he or she maintains a  
158 transient residence. Each sheriff's office shall establish  
159 procedures for reporting transient residence information and  
160 provide notice to transient registrants to report transient  
161 residence information as required in this sub-subparagraph.  
162 Reporting to the sheriff's office as required by this sub-  
163 subparagraph does not exempt registrants from any reregistration  
164 requirement. The sheriff may coordinate and enter into  
165 agreements with police departments and other governmental  
166 entities to facilitate additional reporting sites for transient  
167 residence registration required in this sub-subparagraph. The  
168 sheriff's office shall, within 2 business days, electronically  
169 submit and update all information provided by the sexual  
170 predator to the department.

171         3. A sexual predator who remains at a permanent, temporary,  
172 or transient residence after reporting his or her intent to  
173 vacate such residence shall, within 48 hours after the date upon  
174 which the predator indicated he or she would or did vacate such  
175 residence, report in person to the sheriff's office to which he  
176 or she reported pursuant to subparagraph 2. for the purpose of  
177 reporting his or her address at such residence. When the sheriff  
178 receives the report, the sheriff shall promptly convey the  
179 information to the department. An offender who makes a report as  
180 required under subparagraph 2. but fails to make a report as  
181 required under this subparagraph commits a felony of the second  
182 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
183 775.084.

184         4. The failure of a sexual predator who maintains a



954436

185 transient residence to report in person to the sheriff's office  
186 every 30 days as required by sub-subparagraph 2.b. is punishable  
187 as provided in subsection (10).

188       5.a. A sexual predator shall register all electronic mail  
189 addresses and Internet identifiers, and each Internet  
190 identifier's corresponding website homepage or application  
191 software name, with the department through the department's  
192 online system or in person at the sheriff's office within 48  
193 hours after using such electronic mail addresses and Internet  
194 identifiers. If the sexual predator is in the custody or  
195 control, or under the supervision, of the Department of  
196 Corrections, he or she must report all electronic mail addresses  
197 and Internet identifiers, and each Internet identifier's  
198 corresponding website homepage or application software name, to  
199 the Department of Corrections before using such electronic mail  
200 addresses or Internet identifiers. If the sexual predator is in  
201 the custody or control, or under the supervision, of the  
202 Department of Juvenile Justice, he or she must report all  
203 electronic mail addresses and Internet identifiers, and each  
204 Internet identifier's corresponding website homepage or  
205 application software name, to the Department of Juvenile Justice  
206 before using such electronic mail addresses or Internet  
207 identifiers.

208       b. A sexual predator shall register all changes to vehicles  
209 owned, all changes to home telephone numbers and cellular  
210 telephone numbers, including added and deleted numbers, all  
211 changes to employment information, and all changes in status  
212 related to enrollment, volunteering, or employment at  
213 institutions of higher education, through the department's



954436

214 online system; in person at the sheriff's office; in person at  
215 the Department of Corrections if the sexual predator is in the  
216 custody or control, or under the supervision, of the Department  
217 of Corrections; or in person at the Department of Juvenile  
218 Justice if the sexual predator is in the custody or control, or  
219 under the supervision, of the Department of Juvenile Justice.  
220 All changes required to be reported in this sub-subparagraph  
221 shall be reported within 48 hours after the change.

222 c. The department shall establish an online system through  
223 which sexual predators may securely access, submit, and update  
224 all vehicles owned; electronic mail addresses; Internet  
225 identifiers and each Internet identifier's corresponding website  
226 homepage or application software name; home telephone numbers  
227 and cellular telephone numbers; employment information; and  
228 institution of higher education information.

229 (i) A sexual predator who intends to establish a permanent,  
230 temporary, or transient residence in another state or  
231 jurisdiction other than the State of Florida shall report in  
232 person to the sheriff of the county of current residence ~~within~~  
233 at least 48 hours before the date he or she intends to leave  
234 this state to establish residence in another state or  
235 jurisdiction or at least 21 days before the date he or she  
236 intends to travel ~~if the intended residence of 5 days or more is~~  
237 outside of the United States. Any travel that is not known by  
238 the sexual predator at least 48 hours before he or she intends  
239 to establish a residence in another state of jurisdiction or 21  
240 days before the departure date for travel outside of the United  
241 States must be reported to the sheriff's office as soon as  
242 possible before departure. The sexual predator shall provide to



954436

243 the sheriff the address, municipality, county, state, and  
244 country of intended residence. For international travel, the  
245 sexual predator shall also provide travel information,  
246 including, but not limited to, expected departure and return  
247 dates, flight number, airport of departure, cruise port of  
248 departure, or any other means of intended travel. The sheriff  
249 shall promptly provide to the department the information  
250 received from the sexual predator. The department shall notify  
251 the statewide law enforcement agency, or a comparable agency, in  
252 the intended state, jurisdiction, or country of residence or the  
253 intended country of travel of the sexual predator's intended  
254 residence or intended travel. The failure of a sexual predator  
255 to provide his or her intended place of residence or intended  
256 travel is punishable as provided in subsection (10).

257 Section 2. Paragraph (h) of subsection (1), paragraph (b)  
258 of subsection (2), paragraphs (a) and (e) of subsection (4), and  
259 subsections (7) and (11) of section 943.0435, Florida Statutes,  
260 are amended to read:

261 943.0435 Sexual offenders required to register with the  
262 department; penalty.—

263 (1) As used in this section, the term:

264 (h)1. "Sexual offender" means a person who meets the  
265 criteria in sub-subparagraph a., sub-subparagraph b., sub-  
266 subparagraph c., or sub-subparagraph d., as follows:

267 a.(I) Has been convicted of committing, or attempting,  
268 soliciting, or conspiring to commit, any of the criminal  
269 offenses proscribed in the following statutes in this state or  
270 similar offenses in another jurisdiction: s. 393.135(2); s.  
271 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where



954436

272 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former  
273 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.  
274 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.  
275 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
276 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;  
277 s. 895.03, if the court makes a written finding that the  
278 racketeering activity involved at least one sexual offense  
279 listed in this sub-sub-subparagraph or at least one offense  
280 listed in this sub-sub-subparagraph with sexual intent or  
281 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense  
282 committed in this state which has been redesignated from a  
283 former statute number to one of those listed in this sub-sub-  
284 subparagraph; and

285 (II) Has been released on or after October 1, 1997, from  
286 ~~the~~ a sanction imposed for any conviction of an offense  
287 described in sub-sub-subparagraph (I) and does not otherwise  
288 meet the criteria for registration as a sexual offender under  
289 Chapter 944 or Chapter 985. For purposes of sub-sub-subparagraph  
290 (I), a sanction imposed in this state or in any other  
291 jurisdiction includes, ~~but is not limited to, a fine,~~ probation,  
292 community control, parole, conditional release, control release,  
293 or incarceration in a state prison, federal prison, private  
294 correctional facility, or local detention facility. If no  
295 sanction is imposed the person is deemed to be released upon  
296 conviction;

297 b. Establishes or maintains a residence in this state and  
298 who has not been designated as a sexual predator by a court of  
299 this state but who has been designated as a sexual predator, as  
300 a sexually violent predator, or by another sexual offender



954436

301 designation in another state or jurisdiction and was, as a  
302 result of such designation, subjected to registration or  
303 community or public notification, or both, or would be if the  
304 person were a resident of that state or jurisdiction, without  
305 regard to whether the person otherwise meets the criteria for  
306 registration as a sexual offender;

307 c. Establishes or maintains a residence in this state who  
308 is in the custody or control of, or under the supervision of,  
309 any other state or jurisdiction as a result of a conviction for  
310 committing, or attempting, soliciting, or conspiring to commit,  
311 any of the criminal offenses proscribed in the following  
312 statutes or similar offense in another jurisdiction: s.  
313 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
314 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
315 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
316 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
317 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;  
318 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;  
319 s. 847.0145; s. 895.03, if the court makes a written finding  
320 that the racketeering activity involved at least one sexual  
321 offense listed in this sub-subparagraph or at least one offense  
322 listed in this sub-subparagraph with sexual intent or motive; s.  
323 916.1075(2); or s. 985.701(1); or any similar offense committed  
324 in this state which has been redesignated from a former statute  
325 number to one of those listed in this sub-subparagraph; or

326 d. On or after July 1, 2007, has been adjudicated  
327 delinquent for committing, or attempting, soliciting, or  
328 conspiring to commit, any of the criminal offenses proscribed in  
329 the following statutes in this state or similar offenses in



954436

330 another jurisdiction when the juvenile was 14 years of age or  
331 older at the time of the offense:

332 (I) Section 794.011, excluding s. 794.011(10);

333 (II) Section 800.04(4)(a)2. where the victim is under 12  
334 years of age or where the court finds sexual activity by the use  
335 of force or coercion;

336 (III) Section 800.04(5)(c)1. where the court finds  
337 molestation involving unclothed genitals;

338 (IV) Section 800.04(5)(d) where the court finds the use of  
339 force or coercion and unclothed genitals; or

340 (V) Any similar offense committed in this state which has  
341 been redesignated from a former statute number to one of those  
342 listed in this sub-subparagraph.

343 2. For all qualifying offenses listed in sub-subparagraph  
344 1.d., the court shall make a written finding of the age of the  
345 offender at the time of the offense.

346

347 For each violation of a qualifying offense listed in this  
348 subsection, except for a violation of s. 794.011, the court  
349 shall make a written finding of the age of the victim at the  
350 time of the offense. For a violation of s. 800.04(4), the court  
351 shall also make a written finding indicating whether the offense  
352 involved sexual activity and indicating whether the offense  
353 involved force or coercion. For a violation of s. 800.04(5), the  
354 court shall also make a written finding that the offense did or  
355 did not involve unclothed genitals or genital area and that the  
356 offense did or did not involve the use of force or coercion.

357 (2) Upon initial registration, a sexual offender shall:

358 (b) Provide his or her name; date of birth; social security



954436

359 number; race; sex; height; weight; hair and eye color; tattoos  
360 or other identifying marks; fingerprints; palm prints;  
361 photograph; employment information; address of permanent or  
362 legal residence or address of any current temporary residence,  
363 within the state or out of state, including a rural route  
364 address and a post office box; if no permanent or temporary  
365 address, any transient residence within the state, address,  
366 location or description, and dates of any current or known  
367 future temporary residence within the state or out of state; the  
368 make, model, color, vehicle identification number (VIN), and  
369 license tag number of all vehicles owned; home telephone numbers  
370 and cellular telephone numbers; electronic mail addresses;  
371 Internet identifiers and each Internet identifier's  
372 corresponding website homepage or application software name;  
373 date and place of each conviction; and a brief description of  
374 the crime or crimes committed by the offender. A post office box  
375 may not be provided in lieu of a physical residential address.  
376 The sexual offender shall also produce his or her passport, if  
377 he or she has a passport, and, if he or she is an alien, shall  
378 produce or provide information about documents establishing his  
379 or her immigration status. The sexual offender shall also  
380 provide information about any professional licenses he or she  
381 has.

382       1. If the sexual offender's place of residence is a motor  
383 vehicle, trailer, mobile home, or manufactured home, as defined  
384 in chapter 320, the sexual offender shall also provide to the  
385 department through the sheriff's office written notice of the  
386 vehicle identification number; the license tag number; the  
387 registration number; and a description, including color scheme,



388 of the motor vehicle, trailer, mobile home, or manufactured  
389 home. If the sexual offender's place of residence is a vessel,  
390 live-aboard vessel, or houseboat, as defined in chapter 327, the  
391 sexual offender shall also provide to the department written  
392 notice of the hull identification number; the manufacturer's  
393 serial number; the name of the vessel, live-aboard vessel, or  
394 houseboat; the registration number; and a description, including  
395 color scheme, of the vessel, live-aboard vessel, or houseboat.

396 2. If the sexual offender is enrolled or employed, whether  
397 for compensation or as a volunteer, at an institution of higher  
398 education in this state, the sexual offender shall also provide  
399 to the department the name, address, and county of each  
400 institution, including each campus attended, and the sexual  
401 offender's enrollment, volunteer, or employment status. The  
402 sheriff, the Department of Corrections, or the Department of  
403 Juvenile Justice shall promptly notify each institution of  
404 higher education of the sexual offender's presence and any  
405 change in the sexual offender's enrollment, volunteer, or  
406 employment status.

407 3. A sexual offender shall report with the department  
408 through the department's online system or in person to the  
409 sheriff's office within 48 hours after any change in vehicles  
410 owned to report those vehicle information changes.

411  
412 When a sexual offender reports at the sheriff's office, the  
413 sheriff shall take a photograph, a set of fingerprints, and palm  
414 prints of the offender and forward the photographs, palm prints,  
415 and fingerprints to the department, along with the information  
416 provided by the sexual offender. The sheriff shall promptly



954436

417 provide to the department the information received from the  
418 sexual offender.

419 (4) (a) Each time a sexual offender's driver license or  
420 identification card is subject to renewal, and, without regard  
421 to the status of the offender's driver license or identification  
422 card, within 48 hours after any change in the offender's  
423 permanent, temporary, or transient residence or change in the  
424 offender's name by reason of marriage or other legal process,  
425 the offender shall report in person to a driver license office,  
426 or through an authorized alternate method as provided by the  
427 Department of Highway Safety and Motor Vehicles, and is subject  
428 to the requirements specified in subsection (3). The Department  
429 of Highway Safety and Motor Vehicles shall forward to the  
430 department all photographs and information provided by sexual  
431 offenders. Notwithstanding the restrictions set forth in s.  
432 322.142, the Department of Highway Safety and Motor Vehicles may  
433 release a reproduction of a color-photograph or digital-image  
434 license to the Department of Law Enforcement for purposes of  
435 public notification of sexual offenders as provided in this  
436 section and ss. 943.043 and 944.606. A sexual offender who is  
437 unable to secure or update a driver license or an identification  
438 card with the Department of Highway Safety and Motor Vehicles as  
439 provided in subsection (3) and this subsection shall also report  
440 any change in the sexual offender's permanent, temporary, or  
441 transient residence or change in the offender's name by reason  
442 of marriage or other legal process within 48 hours after the  
443 change to the sheriff's office in the county where the offender  
444 resides or is located and provide confirmation that he or she  
445 reported such information to the Department of Highway Safety



954436

446 and Motor Vehicles. The reporting requirements under this  
447 paragraph do not negate the requirement for a sexual offender to  
448 obtain a Florida driver license or an identification card as  
449 required in this section.

450 (e)1. A sexual offender shall register all electronic mail  
451 addresses and Internet identifiers, and each Internet  
452 identifier's corresponding website homepage or application  
453 software name, with the department through the department's  
454 online system or in person at the sheriff's office within 48  
455 hours after using such electronic mail addresses and Internet  
456 identifiers. If the sexual offender is in the custody or  
457 control, or under the supervision, of the Department of  
458 Corrections, he or she must report all electronic mail addresses  
459 and Internet identifiers, and each Internet identifier's  
460 corresponding website homepage or application software name, to  
461 the Department of Corrections before using such electronic mail  
462 addresses or Internet identifiers. If the sexual offender is in  
463 the custody or control, or under the supervision, of the  
464 Department of Juvenile Justice, he or she must report all  
465 electronic mail addresses and Internet identifiers, and each  
466 Internet identifier's corresponding website homepage or  
467 application software name, to the Department of Juvenile Justice  
468 before using such electronic mail addresses or Internet  
469 identifiers.

470 2. A sexual offender shall register all changes to vehicles  
471 owned, all changes to home telephone numbers and cellular  
472 telephone numbers, including added and deleted numbers, all  
473 changes to employment information, and all changes in status  
474 related to enrollment, volunteering, or employment at



954436

475 institutions of higher education, through the department's  
476 online system; in person at the sheriff's office; in person at  
477 the Department of Corrections if the sexual offender is in the  
478 custody or control, or under the supervision, of the Department  
479 of Corrections; or in person at the Department of Juvenile  
480 Justice if the sexual offender is in the custody or control, or  
481 under the supervision, of the Department of Juvenile Justice.  
482 All changes required to be reported under this subparagraph must  
483 be reported within 48 hours after the change.

484 3. The department shall establish an online system through  
485 which sexual offenders may securely access, submit, and update  
486 all changes in status to vehicles owned; electronic mail  
487 addresses; Internet identifiers and each Internet identifier's  
488 corresponding website homepage or application software name;  
489 home telephone numbers and cellular telephone numbers;  
490 employment information; and institution of higher education  
491 information.

492 (7) A sexual offender who intends to establish a permanent,  
493 temporary, or transient residence in another state or  
494 jurisdiction other than the State of Florida shall report in  
495 person to the sheriff of the county of current residence ~~within~~  
496 at least 48 hours before the date he or she intends to leave  
497 this state to establish residence in another state or  
498 jurisdiction or at least 21 days before the date he or she  
499 intends to travel ~~if the intended residence of 5 days or more is~~  
500 outside of the United States. Any travel that is not known by  
501 the sexual offender at least 48 hours before he or she intends  
502 to establish a residence in another state or jurisdiction, or 21  
503 days before the departure date for travel outside of the United



954436

504 States, must be reported in person to the sheriff's office as  
505 soon as possible before departure. The sexual offender shall  
506 provide to the sheriff the address, municipality, county, state,  
507 and country of intended residence. For international travel, the  
508 sexual offender shall also provide travel information,  
509 including, but not limited to, expected departure and return  
510 dates, flight number, airport of departure, cruise port of  
511 departure, or any other means of intended travel. The sheriff  
512 shall promptly provide to the department the information  
513 received from the sexual offender. The department shall notify  
514 the statewide law enforcement agency, or a comparable agency, in  
515 the intended state, jurisdiction, or country of residence or the  
516 intended country of travel of the sexual offender's intended  
517 residence or intended travel. The failure of a sexual offender  
518 to provide his or her intended place of residence or intended  
519 travel is punishable as provided in subsection (9).

520 (11) Except as provided in s. 943.04354, a sexual offender  
521 shall maintain registration with the department for the duration  
522 of his or her life unless the sexual offender has received a  
523 full pardon or has had a conviction set aside in a  
524 postconviction proceeding for any offense that meets the  
525 criteria for classifying the person as a sexual offender for  
526 purposes of registration. However, a sexual offender shall be  
527 considered for removal of the requirement to register as a  
528 sexual offender only if the person:

529 (a)1. Has been lawfully released from confinement,  
530 supervision, or sanction, whichever is later, for at least 25  
531 years and has not been arrested for any felony or misdemeanor  
532 offense since release, provided that the sexual offender's



954436

533 requirement to register was not based upon an adult conviction:  
534       a. For a violation of s. 787.01 or s. 787.02;  
535       b. For a violation of s. 794.011, excluding s. 794.011(10);  
536       c. For a violation of s. 800.04(4)(a)2. where the court  
537 finds the offense involved a victim under 12 years of age or  
538 sexual activity by the use of force or coercion;  
539       d. For a violation of s. 800.04(5)(b);  
540       e. For a violation of s. 800.04(5)(c)2. where the court  
541 finds the offense involved the use of force or coercion and  
542 unclothed genitals or genital area;  
543       f. For a violation of s. 825.1025(2)(a);  
544       g. For any attempt or conspiracy to commit any such  
545 offense;  
546       h. For a violation of similar law of another jurisdiction;  
547 or  
548       i. For a violation of a similar offense committed in this  
549 state which has been redesignated from a former statute number  
550 to one of those listed in this subparagraph.  
551       2. If the sexual offender meets the criteria in  
552 subparagraph 1., the sexual offender may, for the purpose of  
553 removing the requirement for registration as a sexual offender,  
554 petition the criminal division of the circuit court of the  
555 circuit:  
556       a. Where the conviction or adjudication occurred, for a  
557 conviction in this state;  
558       b. Where the sexual offender resides, for a conviction of a  
559 violation of similar law of another jurisdiction; or  
560       c. Where the sexual offender last resided, for a sexual  
561 offender with a conviction of a violation of similar law of



954436

562 another jurisdiction who no longer resides in this state.

563         3. The court may grant or deny relief if the offender  
564 demonstrates to the court that he or she has not been arrested  
565 for any crime since release; the requested relief complies with  
566 the federal Adam Walsh Child Protection and Safety Act of 2006  
567 and any other federal standards applicable to the removal of  
568 registration requirements for a sexual offender or required to  
569 be met as a condition for the receipt of federal funds by the  
570 state; and the court is otherwise satisfied that the offender is  
571 not a current or potential threat to public safety. The state  
572 attorney in the circuit in which the petition is filed must be  
573 given notice of the petition at least 3 weeks before the hearing  
574 on the matter. The state attorney may present evidence in  
575 opposition to the requested relief or may otherwise demonstrate  
576 the reasons why the petition should be denied. If the court  
577 denies the petition, the court may set a future date at which  
578 the sexual offender may again petition the court for relief,  
579 subject to the standards for relief provided in this subsection.

580         4. The department shall remove an offender from  
581 classification as a sexual offender for purposes of registration  
582 if the offender provides to the department a certified copy of  
583 the court's written findings or order that indicates that the  
584 offender is no longer required to comply with the requirements  
585 for registration as a sexual offender.

586         (b) Maintains ~~As defined in sub-subparagraph (1)(h)1.b.~~  
587 ~~must maintain~~ registration with the department as described in  
588 sub-subparagraph (1)(h)1.b. for the duration of his or her life  
589 until the person provides the department with an order issued by  
590 the court that designated the person as a sexual predator, as a



954436

591 sexually violent predator, or any other ~~by another~~ sexual  
592 offender designation in the state or jurisdiction in which the  
593 order was issued which states that such designation has been  
594 removed or demonstrates to the department that such designation,  
595 if not imposed by a court, has been removed by operation of law  
596 or court order in the state or jurisdiction in which the  
597 designation was made, ~~and~~ provided that such person no longer  
598 meets the criteria for registration as a sexual offender under  
599 the laws of this state.

600 (c)1. Is required to register as a sexual offender solely  
601 under the requirements of sub-subparagraph (1)(h)1.b. and files  
602 a petition in the circuit court in the jurisdiction in which the  
603 person resides or, for a person who no longer resides in this  
604 state, the court in the jurisdiction in which the person last  
605 resided in this state. The petition must assert that his or her  
606 designation as a sexual predator or sexually violent predator or  
607 any other sexual offender designation in the state or  
608 jurisdiction in which the designation was made is confidential  
609 from public disclosure or that such designation, if not imposed  
610 by a court, is considered confidential from public disclosure by  
611 operation of law or court order in the state or jurisdiction  
612 requiring registration, provided that such person does not meet  
613 the criteria for registration as a sexual offender under the  
614 laws of this state.

615 2. If the person meets the criteria in subparagraph 1., the  
616 court may grant the petition and remove the requirement to  
617 register as a sexual offender.

618 3. A petition under this paragraph must document the  
619 person's conviction and include a copy of the order issued by



954436

620 the court in the state or jurisdiction which made the  
621 designation confidential from public disclosure. If the  
622 confidential status was not granted by court order, the person  
623 must demonstrate to the court that his or her registration  
624 requirement has been made confidential by operation of law in  
625 the state or jurisdiction requiring registration. The state  
626 attorney and the department must be given notice at least 21  
627 days before the date of the hearing on the petition and may  
628 present evidence in opposition to the requested relief or may  
629 otherwise demonstrate why it should be denied.

630 4. If a person provides to the department a certified copy  
631 of the circuit court's order granting the persons removal of the  
632 requirement to register as a sexual offender in this state in  
633 accordance with this subparagraph, the registration requirement  
634 does not apply to the person and the department must remove all  
635 information about the person from the public registry of sexual  
636 offenders and sexual predators maintained by the department.

637 Section 3. For the purpose of incorporating the amendment  
638 made by this act to section 775.21, Florida Statutes, in a  
639 reference thereto, paragraph (a) of subsection (3) of section  
640 39.0139, Florida Statutes, is reenacted to read:

641 39.0139 Visitation or other contact; restrictions.—

642 (3) PRESUMPTION OF DETRIMENT.—

643 (a) A rebuttable presumption of detriment to a child is  
644 created when:

645 1. A court of competent jurisdiction has found probable  
646 cause exists that a parent or caregiver has sexually abused a  
647 child as defined in s. 39.01;

648 2. A parent or caregiver has been found guilty of,



954436

649 regardless of adjudication, or has entered a plea of guilty or  
650 nolo contendere to, charges under the following statutes or  
651 substantially similar statutes of other jurisdictions:

652 a. Section 787.04, relating to removing minors from the  
653 state or concealing minors contrary to court order;

654 b. Section 794.011, relating to sexual battery;

655 c. Section 798.02, relating to lewd and lascivious  
656 behavior;

657 d. Chapter 800, relating to lewdness and indecent exposure;

658 e. Section 826.04, relating to incest; or

659 f. Chapter 827, relating to the abuse of children; or

660 3. A court of competent jurisdiction has determined a  
661 parent or caregiver to be a sexual predator as defined in s.  
662 775.21 or a parent or caregiver has received a substantially  
663 similar designation under laws of another jurisdiction.

664 Section 4. For the purpose of incorporating the amendment  
665 made by this act to section 775.21, Florida Statutes, in a  
666 reference thereto, paragraph (b) of subsection (6) of section  
667 39.509, Florida Statutes, is reenacted to read:

668 39.509 Grandparents rights.—Notwithstanding any other  
669 provision of law, a maternal or paternal grandparent as well as  
670 a stepgrandparent is entitled to reasonable visitation with his  
671 or her grandchild who has been adjudicated a dependent child and  
672 taken from the physical custody of the parent unless the court  
673 finds that such visitation is not in the best interest of the  
674 child or that such visitation would interfere with the goals of  
675 the case plan. Reasonable visitation may be unsupervised and,  
676 where appropriate and feasible, may be frequent and continuing.  
677 Any order for visitation or other contact must conform to the



954436

678 provisions of s. 39.0139.

679 (6) In determining whether grandparental visitation is not  
680 in the child's best interest, consideration may be given to the  
681 following:

682 (b) The designation by a court as a sexual predator as  
683 defined in s. 775.21 or a substantially similar designation  
684 under laws of another jurisdiction.

685 Section 5. For the purpose of incorporating the amendment  
686 made by this act to section 775.21, Florida Statutes, in a  
687 reference thereto, paragraphs (d) and (n) of subsection (1) of  
688 section 39.806, Florida Statutes, are reenacted to read:

689 39.806 Grounds for termination of parental rights.—

690 (1) Grounds for the termination of parental rights may be  
691 established under any of the following circumstances:

692 (d) When the parent of a child is incarcerated and either:

693 1. The period of time for which the parent is expected to  
694 be incarcerated will constitute a significant portion of the  
695 child's minority. When determining whether the period of time is  
696 significant, the court shall consider the child's age and the  
697 child's need for a permanent and stable home. The period of time  
698 begins on the date that the parent enters into incarceration;

699 2. The incarcerated parent has been determined by the court  
700 to be a violent career criminal as defined in s. 775.084, a  
701 habitual violent felony offender as defined in s. 775.084, or a  
702 sexual predator as defined in s. 775.21; has been convicted of  
703 first degree or second degree murder in violation of s. 782.04  
704 or a sexual battery that constitutes a capital, life, or first  
705 degree felony violation of s. 794.011; or has been convicted of  
706 an offense in another jurisdiction which is substantially



954436

707 similar to one of the offenses listed in this paragraph. As used  
708 in this section, the term "substantially similar offense" means  
709 any offense that is substantially similar in elements and  
710 penalties to one of those listed in this subparagraph, and that  
711 is in violation of a law of any other jurisdiction, whether that  
712 of another state, the District of Columbia, the United States or  
713 any possession or territory thereof, or any foreign  
714 jurisdiction; or

715         3. The court determines by clear and convincing evidence  
716 that continuing the parental relationship with the incarcerated  
717 parent would be harmful to the child and, for this reason, that  
718 termination of the parental rights of the incarcerated parent is  
719 in the best interest of the child. When determining harm, the  
720 court shall consider the following factors:

721             a. The age of the child.

722             b. The relationship between the child and the parent.

723             c. The nature of the parent's current and past provision  
724 for the child's developmental, cognitive, psychological, and  
725 physical needs.

726             d. The parent's history of criminal behavior, which may  
727 include the frequency of incarceration and the unavailability of  
728 the parent to the child due to incarceration.

729             e. Any other factor the court deems relevant.

730             (n) The parent is convicted of an offense that requires the  
731 parent to register as a sexual predator under s. 775.21.

732         Section 6. For the purpose of incorporating the amendment  
733 made by this act to section 775.21 and 943.0435, Florida  
734 Statutes, in a reference thereto, paragraph (c) of subsection  
735 (9) of section 61.13, Florida Statutes, is reenacted to read:



954436

736           61.13 Support of children; parenting and time-sharing;  
737 powers of court.—

738           (9)

739           (c) A court may not order visitation at a recovery  
740 residence if any resident of the recovery residence is currently  
741 required to register as a sexual predator under s. 775.21 or as  
742 a sexual offender under s. 943.0435.

743           Section 7. For the purpose of incorporating the amendment  
744 made by this act to section 775.21, Florida Statutes, in a  
745 reference thereto, paragraph (b) of subsection (4) of section  
746 63.089, Florida Statutes, is reenacted to read:

747           63.089 Proceeding to terminate parental rights pending  
748 adoption; hearing; grounds; dismissal of petition; judgment.—

749           (4) FINDING OF ABANDONMENT.—A finding of abandonment  
750 resulting in a termination of parental rights must be based upon  
751 clear and convincing evidence that a parent or person having  
752 legal custody has abandoned the child in accordance with the  
753 definition contained in s. 63.032. A finding of abandonment may  
754 also be based upon emotional abuse or a refusal to provide  
755 reasonable financial support, when able, to a birth mother  
756 during her pregnancy or on whether the person alleged to have  
757 abandoned the child, while being able, failed to establish  
758 contact with the child or accept responsibility for the child's  
759 welfare.

760           (b) The child has been abandoned when the parent of a child  
761 is incarcerated on or after October 1, 2001, in a federal,  
762 state, or county correctional institution and:

763           1. The period of time for which the parent has been or is  
764 expected to be incarcerated will constitute a significant



954436

765 portion of the child's minority. In determining whether the  
766 period of time is significant, the court shall consider the  
767 child's age and the child's need for a permanent and stable  
768 home. The period of time begins on the date that the parent  
769 enters into incarceration;

770         2. The incarcerated parent has been determined by a court  
771 of competent jurisdiction to be a violent career criminal as  
772 defined in s. 775.084, a habitual violent felony offender as  
773 defined in s. 775.084, convicted of child abuse as defined in s.  
774 827.03, or a sexual predator as defined in s. 775.21; has been  
775 convicted of first degree or second degree murder in violation  
776 of s. 782.04 or a sexual battery that constitutes a capital,  
777 life, or first degree felony violation of s. 794.011; or has  
778 been convicted of a substantially similar offense in another  
779 jurisdiction. As used in this section, the term "substantially  
780 similar offense" means any offense that is substantially similar  
781 in elements and penalties to one of those listed in this  
782 subparagraph, and that is in violation of a law of any other  
783 jurisdiction, whether that of another state, the District of  
784 Columbia, the United States or any possession or territory  
785 thereof, or any foreign jurisdiction; or

786         3. The court determines by clear and convincing evidence  
787 that continuing the parental relationship with the incarcerated  
788 parent would be harmful to the child and, for this reason,  
789 termination of the parental rights of the incarcerated parent is  
790 in the best interests of the child.

791         Section 8. For the purpose of incorporating the amendment  
792 made by this act to section 775.21, Florida Statutes, in a  
793 reference thereto, Subsection (3) of section 63.092, Florida



954436

794 Statutes, is reenacted to read:

795 63.092 Report to the court of intended placement by an  
796 adoption entity; at-risk placement; preliminary study.—

797 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the  
798 intended adoptive home, a preliminary home study must be  
799 performed by a licensed child-placing agency, a child-caring  
800 agency registered under s. 409.176, a licensed professional, or  
801 an agency described in s. 61.20(2), unless the adoptee is an  
802 adult or the petitioner is a stepparent or a relative. If the  
803 adoptee is an adult or the petitioner is a stepparent or a  
804 relative, a preliminary home study may be required by the court  
805 for good cause shown. The department is required to perform the  
806 preliminary home study only if there is no licensed child-  
807 placing agency, child-caring agency registered under s. 409.176,  
808 licensed professional, or agency described in s. 61.20(2), in  
809 the county where the prospective adoptive parents reside. The  
810 preliminary home study must be made to determine the suitability  
811 of the intended adoptive parents and may be completed before  
812 identification of a prospective adoptive minor. If the  
813 identified prospective adoptive minor is in the custody of the  
814 department, a preliminary home study must be completed within 30  
815 days after it is initiated. A favorable preliminary home study  
816 is valid for 1 year after the date of its completion. Upon its  
817 completion, a signed copy of the home study must be provided to  
818 the intended adoptive parents who were the subject of the home  
819 study. A minor may not be placed in an intended adoptive home  
820 before a favorable preliminary home study is completed unless  
821 the adoptive home is also a licensed foster home under s.  
822 409.175. The preliminary home study must include, at a minimum:



954436

- 823 (a) An interview with the intended adoptive parents.
- 824 (b) Records checks of the department's central abuse  
825 registry, which the department shall provide to the entity  
826 conducting the preliminary home study, and criminal records  
827 correspondence checks under s. 39.0138 through the Department of  
828 Law Enforcement on the intended adoptive parents.
- 829 (c) An assessment of the physical environment of the home.
- 830 (d) A determination of the financial security of the  
831 intended adoptive parents.
- 832 (e) Documentation of counseling and education of the  
833 intended adoptive parents on adoptive parenting, as determined  
834 by the entity conducting the preliminary home study. The  
835 training specified in s. 409.175(14) shall only be required for  
836 persons who adopt children from the department.
- 837 (f) Documentation that information on adoption and the  
838 adoption process has been provided to the intended adoptive  
839 parents.
- 840 (g) Documentation that information on support services  
841 available in the community has been provided to the intended  
842 adoptive parents.
- 843 (h) A copy of each signed acknowledgment of receipt of  
844 disclosure required by s. 63.085.

845

846 If the preliminary home study is favorable, a minor may be  
847 placed in the home pending entry of the judgment of adoption. A  
848 minor may not be placed in the home if the preliminary home  
849 study is unfavorable. If the preliminary home study is  
850 unfavorable, the adoption entity may, within 20 days after  
851 receipt of a copy of the written recommendation, petition the



954436

852 court to determine the suitability of the intended adoptive  
853 home. A determination as to suitability under this subsection  
854 does not act as a presumption of suitability at the final  
855 hearing. In determining the suitability of the intended adoptive  
856 home, the court must consider the totality of the circumstances  
857 in the home. A minor may not be placed in a home in which there  
858 resides any person determined by the court to be a sexual  
859 predator as defined in s. 775.21 or to have been convicted of an  
860 offense listed in s. 63.089(4)(b)2.

861 Section 9. For the purpose of incorporating the amendment  
862 made by this act to section 775.21 and 943.0435, Florida  
863 Statutes, in a reference thereto, paragraph (i) of subsection  
864 (3) of section 68.07, Florida Statutes, is reenacted to read:

865 68.07 Change of name.—

866 (3) Each petition shall be verified and show:

867 (i) Whether the petitioner has ever been required to  
868 register as a sexual predator under s. 775.21 or as a sexual  
869 offender under s. 943.0435.

870 Section 10. For the purpose of incorporating the amendment  
871 made by this act to section 775.21 and 943.0435, Florida  
872 Statutes, in a reference thereto, Subsection (6) of section  
873 68.07, Florida Statutes, is reenacted to read:

874 68.07 Change of name.—

875 (6) The clerk of the court must, within 5 business days  
876 after the filing of the final judgment, send a report of the  
877 judgment to the Department of Law Enforcement on a form to be  
878 furnished by that department. If the petitioner is required to  
879 register as a sexual predator or a sexual offender pursuant to  
880 s. 775.21 or s. 943.0435, the clerk of court shall



954436

881 electronically notify the Department of Law Enforcement of the  
882 name change, in a manner prescribed by that department, within 2  
883 business days after the filing of the final judgment. The  
884 Department of Law Enforcement must send a copy of the report to  
885 the Department of Highway Safety and Motor Vehicles, which may  
886 be delivered by electronic transmission. The report must contain  
887 sufficient information to identify the petitioner, including the  
888 results of the criminal history records check if applicable, the  
889 new name of the petitioner, and the file number of the judgment.  
890 The Department of Highway Safety and Motor Vehicles shall  
891 monitor the records of any sexual predator or sexual offender  
892 whose name has been provided to it by the Department of Law  
893 Enforcement. If the sexual predator or sexual offender does not  
894 obtain a replacement driver license or identification card  
895 within the required time as specified in s. 775.21 or s.  
896 943.0435, the Department of Highway Safety and Motor Vehicles  
897 shall notify the Department of Law Enforcement. The Department  
898 of Law Enforcement shall notify applicable law enforcement  
899 agencies of the predator's or offender's failure to comply with  
900 registration requirements. Any information retained by the  
901 Department of Law Enforcement and the Department of Highway  
902 Safety and Motor Vehicles may be revised or supplemented by said  
903 departments to reflect changes made by the final judgment. With  
904 respect to a person convicted of a felony in another state or of  
905 a federal offense, the Department of Law Enforcement must send  
906 the report to the respective state's office of law enforcement  
907 records or to the office of the Federal Bureau of Investigation.  
908 The Department of Law Enforcement may forward the report to any  
909 other law enforcement agency it believes may retain information



954436

910 related to the petitioner.

911 Section 11. For the purpose of incorporating the amendment  
912 made by this act to section 943.0435, Florida Statutes, in a  
913 reference thereto, paragraph (b) of subsection (2) of section  
914 98.0751, Florida Statutes, is reenacted to read:

915 98.0751 Restoration of voting rights; termination of  
916 ineligibility subsequent to a felony conviction.—

917 (2) For purposes of this section, the term:

918 (b) "Felony sexual offense" means any of the following:

919 1. Any felony offense that serves as a predicate to  
920 registration as a sexual offender in accordance with s.

921 943.0435;

922 2. Section 491.0112;

923 3. Section 784.049(3)(b);

924 4. Section 794.08;

925 5. Section 796.08;

926 6. Section 800.101;

927 7. Section 826.04;

928 8. Section 847.012;

929 9. Section 872.06(2);

930 10. Section 944.35(3)(b)2.;

931 11. Section 951.221(1); or

932 12. Any similar offense committed in another jurisdiction  
933 which would be an offense listed in this paragraph if it had  
934 been committed in violation of the laws of this state.

935 Section 12. For the purpose of incorporating the amendment  
936 made by this act to section 775.21 and 943.0435, Florida  
937 Statutes, in a reference thereto, Subsection (4) of section  
938 320.02, Florida Statutes, is reenacted to read:



954436

939           320.02 Registration required; application for registration;  
940 forms.—

941           (4) Except as provided in ss. 775.21, 775.261, 943.0435,  
942 944.607, and 985.4815, the owner of any motor vehicle registered  
943 in the state shall notify the department in writing of any  
944 change of address within 30 days of such change. The  
945 notification shall include the registration license plate  
946 number, the vehicle identification number (VIN) or title  
947 certificate number, year of vehicle make, and the owner's full  
948 name.

949           Section 13. For the purpose of incorporating the amendment  
950 made by this act to section 775.21 and 943.0435, Florida  
951 Statutes, in a reference thereto, Subsection (3) of section  
952 322.141, Florida Statutes, is reenacted to read:

953           322.141 Color or markings of certain licenses or  
954 identification cards.—

955           (3) All licenses for the operation of motor vehicles or  
956 identification cards originally issued or reissued by the  
957 department to persons who are designated as sexual predators  
958 under s. 775.21 or subject to registration as sexual offenders  
959 under s. 943.0435 or s. 944.607, or who have a similar  
960 designation or are subject to a similar registration under the  
961 laws of another jurisdiction, shall have on the front of the  
962 license or identification card the following:

963           (a) For a person designated as a sexual predator under s.  
964 775.21 or who has a similar designation under the laws of  
965 another jurisdiction, the marking "SEXUAL PREDATOR."

966           (b) For a person subject to registration as a sexual  
967 offender under s. 943.0435 or s. 944.607, or subject to a



954436

968 similar registration under the laws of another jurisdiction, the  
969 marking "943.0435, F.S."

970 Section 14. For the purpose of incorporating the amendment  
971 made by this act to section 775.21 and 943.0435, Florida  
972 Statutes, in a reference thereto, Subsections (1) and (2) of  
973 section 322.19, Florida Statutes, are reenacted to read:

974 322.19 Change of address or name.—

975 (1) Except as provided in ss. 775.21, 775.261, 943.0435,  
976 944.607, and 985.4815, whenever any person, after applying for  
977 or receiving a driver license or identification card, changes  
978 his or her legal name, that person must within 30 days  
979 thereafter obtain a replacement license or card that reflects  
980 the change.

981 (2) If a person, after applying for or receiving a driver  
982 license or identification card, changes the legal residence or  
983 mailing address in the application, license, or card, the person  
984 must, within 30 calendar days after making the change, obtain a  
985 replacement license or card that reflects the change. A written  
986 request to the department must include the old and new addresses  
987 and the driver license or identification card number. Any person  
988 who has a valid, current student identification card issued by  
989 an educational institution in this state is presumed not to have  
990 changed his or her legal residence or mailing address. This  
991 subsection does not affect any person required to register a  
992 permanent or temporary address change pursuant to s. 775.13, s.  
993 775.21, s. 775.25, or s. 943.0435.

994 Section 15. For the purpose of incorporating the amendment  
995 made by this act to section 943.0435, Florida Statutes, in a  
996 reference thereto, paragraph (a) of subsection (2) of section



997 394.9125, Florida Statutes, is reenacted to read:  
998       394.9125 State attorney; authority to refer a person for  
999 civil commitment.—  
1000       (2) A state attorney may refer a person to the department  
1001 for civil commitment proceedings if the person:  
1002       (a) Is required to register as a sexual offender pursuant  
1003 to s. 943.0435;  
1004       Section 16. For the purpose of incorporating the amendment  
1005 made by this act to section 775.21 and 943.0435, Florida  
1006 Statutes, in a reference thereto, paragraph (b) of subsection  
1007 (10) of section 397.487, Florida Statutes, is reenacted to read:  
1008       397.487 Voluntary certification of recovery residences.—  
1009       (10)  
1010       (b) A certified recovery residence may not allow a minor  
1011 child to visit a parent who is a resident of the recovery  
1012 residence at any time if any resident of the recovery residence  
1013 is currently required to register as a sexual predator under s.  
1014 775.21 or as a sexual offender under s. 943.0435.  
1015       Section 17. For the purpose of incorporating the amendment  
1016 made by this act to section 775.21 and 943.0435, Florida  
1017 Statutes, in a reference thereto, paragraph (b) of subsection  
1018 (4) of section 435.07, Florida Statutes, is reenacted to read:  
1019       435.07 Exemptions from disqualification.—Unless otherwise  
1020 provided by law, the provisions of this section apply to  
1021 exemptions from disqualification for disqualifying offenses  
1022 revealed pursuant to background screenings required under this  
1023 chapter, regardless of whether those disqualifying offenses are  
1024 listed in this chapter or other laws.  
1025       (4)



954436

1026 (b) Disqualification from employment under this chapter may  
1027 not be removed from, nor may an exemption be granted to, any  
1028 person who is a:

- 1029 1. Sexual predator as designated pursuant to s. 775.21;  
1030 2. Career offender pursuant to s. 775.261; or  
1031 3. Sexual offender pursuant to s. 943.0435, unless the  
1032 requirement to register as a sexual offender has been removed  
1033 pursuant to s. 943.04354.

1034 Section 18. For the purpose of incorporating the amendment  
1035 made by this act to section 775.21, Florida Statutes, in a  
1036 reference thereto, paragraph (e) of subsection (4) of section  
1037 775.13, Florida Statutes, is reenacted to read:

1038 775.13 Registration of convicted felons, exemptions;  
1039 penalties.—

1040 (4) This section does not apply to an offender:

1041 (e) Who is a sexual predator and has registered as required  
1042 under s. 775.21;

1043 Section 19. For the purpose of incorporating the amendment  
1044 made by this act to section 943.0435, Florida Statutes, in a  
1045 reference thereto, paragraph (f) of subsection (4) of section  
1046 775.13, Florida Statutes, is reenacted to read:

1047 775.13 Registration of convicted felons, exemptions;  
1048 penalties.—

1049 (4) This section does not apply to an offender:

1050 (f) Who is a sexual offender and has registered as required  
1051 in s. 943.0435 or s. 944.607; or

1052 Section 20. For the purpose of incorporating the amendment  
1053 made by this act to section 943.0435, Florida Statutes, in a  
1054 reference thereto, paragraph (d) of subsection (5) and paragraph



954436

1055 (d) of subsection (10) of section 775.21, Florida Statutes, is  
1056 reenacted to read:

1057 775.21 The Florida Sexual Predators Act.—

1058 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated  
1059 as a sexual predator as follows:

1060 (d) A person who establishes or maintains a residence in  
1061 this state and who has not been designated as a sexual predator  
1062 by a court of this state but who has been designated as a sexual  
1063 predator, as a sexually violent predator, or by another sexual  
1064 offender designation in another state or jurisdiction and was,  
1065 as a result of such designation, subjected to registration or  
1066 community or public notification, or both, or would be if the  
1067 person was a resident of that state or jurisdiction, without  
1068 regard to whether the person otherwise meets the criteria for  
1069 registration as a sexual offender, shall register in the manner  
1070 provided in s. 943.0435 or s. 944.607 and shall be subject to  
1071 community and public notification as provided in s. 943.0435 or  
1072 s. 944.607. A person who meets the criteria of this section is  
1073 subject to the requirements and penalty provisions of s.  
1074 943.0435 or s. 944.607 until the person provides the department  
1075 with an order issued by the court that designated the person as  
1076 a sexual predator, as a sexually violent predator, or by another  
1077 sexual offender designation in the state or jurisdiction in  
1078 which the order was issued which states that such designation  
1079 has been removed or demonstrates to the department that such  
1080 designation, if not imposed by a court, has been removed by  
1081 operation of law or court order in the state or jurisdiction in  
1082 which the designation was made, and provided such person no  
1083 longer meets the criteria for registration as a sexual offender



954436

1084 under the laws of this state.

1085 (10) PENALTIES.—

1086 (d) Any person who misuses public records information  
1087 relating to a sexual predator, as defined in this section, or a  
1088 sexual offender, as defined in s. 943.0435 or s. 944.607, to  
1089 secure a payment from such a predator or offender; who knowingly  
1090 distributes or publishes false information relating to such a  
1091 predator or offender which the person misrepresents as being  
1092 public records information; or who materially alters public  
1093 records information with the intent to misrepresent the  
1094 information, including documents, summaries of public records  
1095 information provided by law enforcement agencies, or public  
1096 records information displayed by law enforcement agencies on  
1097 websites or provided through other means of communication,  
1098 commits a misdemeanor of the first degree, punishable as  
1099 provided in s. 775.082 or s. 775.083.

1100 Section 21. For the purpose of incorporating the amendment  
1101 made by this act to section 943.0435, Florida Statutes, in a  
1102 reference thereto, Subsection (2) of section 775.24, Florida  
1103 Statutes, is reenacted to read:

1104 775.24 Duty of the court to uphold laws governing sexual  
1105 predators and sexual offenders.—

1106 (2) If a person meets the criteria in this chapter for  
1107 designation as a sexual predator or meets the criteria in s.  
1108 943.0435, s. 944.606, s. 944.607, or any other law for  
1109 classification as a sexual offender, the court may not enter an  
1110 order, for the purpose of approving a plea agreement or for any  
1111 other reason, which:

1112 (a) Exempts a person who meets the criteria for designation



954436

1113 as a sexual predator or classification as a sexual offender from  
1114 such designation or classification, or exempts such person from  
1115 the requirements for registration or community and public  
1116 notification imposed upon sexual predators and sexual offenders;

1117 (b) Restricts the compiling, reporting, or release of  
1118 public records information that relates to sexual predators or  
1119 sexual offenders; or

1120 (c) Prevents any person or entity from performing its  
1121 duties or operating within its statutorily conferred authority  
1122 as such duty or authority relates to sexual predators or sexual  
1123 offenders.

1124 Section 22. For the purpose of incorporating the amendment  
1125 made by this act to section 775.21 and 943.0435, Florida  
1126 Statutes, in a reference thereto, Section 775.25, Florida  
1127 Statutes, is reenacted to read:

1128 775.25 Prosecutions for acts or omissions.—A sexual  
1129 predator or sexual offender who commits any act or omission in  
1130 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.  
1131 944.607, or former s. 947.177 may be prosecuted for the act or  
1132 omission in the county in which the act or omission was  
1133 committed, in the county of the last registered address of the  
1134 sexual predator or sexual offender, in the county in which the  
1135 conviction occurred for the offense or offenses that meet the  
1136 criteria for designating a person as a sexual predator or sexual  
1137 offender, in the county where the sexual predator or sexual  
1138 offender was released from incarceration, or in the county of  
1139 the intended address of the sexual predator or sexual offender  
1140 as reported by the predator or offender prior to his or her  
1141 release from incarceration. In addition, a sexual predator may



954436

1142 be prosecuted for any such act or omission in the county in  
1143 which he or she was designated a sexual predator.

1144 Section 23. For the purpose of incorporating the amendment  
1145 made by this act to section 775.21 and 943.0435, Florida  
1146 Statutes, in a reference thereto, paragraph (b) of subsection  
1147 (3) of section 775.261, Florida Statutes, is reenacted to read:

1148 775.261 The Florida Career Offender Registration Act.—

1149 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

1150 (b) This section does not apply to any person who has been  
1151 designated as a sexual predator and required to register under  
1152 s. 775.21 or who is required to register as a sexual offender  
1153 under s. 943.0435 or s. 944.607. However, if a person is no  
1154 longer required to register as a sexual predator under s. 775.21  
1155 or as a sexual offender under s. 943.0435 or s. 944.607, the  
1156 person must register as a career offender under this section if  
1157 the person is otherwise designated as a career offender as  
1158 provided in this section.

1159 Section 24. For the purpose of incorporating the amendment  
1160 made by this act to section 775.21, Florida Statutes, in a  
1161 reference thereto, Subsection (1) of section 794.075, Florida  
1162 Statutes, is reenacted to read:

1163 794.075 Sexual predators; erectile dysfunction drugs.—

1164 (1) A person may not possess a prescription drug, as  
1165 defined in s. 499.003(40), for the purpose of treating erectile  
1166 dysfunction if the person is designated as a sexual predator  
1167 under s. 775.21.

1168 Section 25. For the purpose of incorporating the amendment  
1169 made by this act to section 775.21 and 943.0435, Florida  
1170 Statutes, in a reference thereto, paragraph (cc) of subsection



954436

1171 (2) of section 900.05, Florida Statutes, is reenacted to read:  
1172 900.05 Criminal justice data collection.—

1173 (2) DEFINITIONS.—As used in this section, the term:

1174 (cc) "Sexual offender flag" means an indication that a  
1175 defendant was required to register as a sexual predator as  
1176 defined in s. 775.21 or as a sexual offender as defined in s.  
1177 943.0435.

1178 Section 26. For the purpose of incorporating the amendment  
1179 made by this act to section 775.21, Florida Statutes, in a  
1180 reference thereto, paragraph (c) of subsection (1) of section  
1181 903.0351, Florida Statutes, is reenacted to read:

1182 903.0351 Restrictions on pretrial release pending  
1183 probation-violation hearing or community-control-violation  
1184 hearing.—

1185 (1) In the instance of an alleged violation of felony  
1186 probation or community control, bail or any other form of  
1187 pretrial release shall not be granted prior to the resolution of  
1188 the probation-violation hearing or the community-control-  
1189 violation hearing to:

1190 (c) A person who is on felony probation or community  
1191 control and has previously been found by a court to be a  
1192 habitual violent felony offender as defined in s. 775.084(1)(b),  
1193 a three-time violent felony offender as defined in s.  
1194 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
1195 arrested for committing a qualifying offense as defined in s.  
1196 948.06(8)(c) on or after the effective date of this act.

1197 Section 27. For the purpose of incorporating the amendment  
1198 made by this act to section 775.21 and 943.0435, Florida  
1199 Statutes, in a reference thereto, paragraph (m) of subsection



954436

1200 (2) of section 903.046, Florida Statutes, is reenacted to read:  
1201 903.046 Purpose of and criteria for bail determination.—  
1202 (2) When determining whether to release a defendant on bail  
1203 or other conditions, and what that bail or those conditions may  
1204 be, the court shall consider:  
1205 (m) Whether the defendant, other than a defendant whose  
1206 only criminal charge is a misdemeanor offense under chapter 316,  
1207 is required to register as a sexual offender under s. 943.0435  
1208 or a sexual predator under s. 775.21; and, if so, he or she is  
1209 not eligible for release on bail or surety bond until the first  
1210 appearance on the case in order to ensure the full participation  
1211 of the prosecutor and the protection of the public.  
1212 Section 28. For the purpose of incorporating the amendment  
1213 made by this act to section 775.21 and 943.0435, Florida  
1214 Statutes, in a reference thereto, paragraph (b) of subsection  
1215 (4) of section 907.043, Florida Statutes, is reenacted to read:  
1216 907.043 Pretrial release; citizens' right to know.—  
1217 (4)  
1218 (b) The annual report must contain, but need not be limited  
1219 to:  
1220 1. The name, location, and funding sources of the pretrial  
1221 release program, including the amount of public funds, if any,  
1222 received by the pretrial release program.  
1223 2. The operating and capital budget of each pretrial  
1224 release program receiving public funds.  
1225 3.a. The percentage of the pretrial release program's total  
1226 budget representing receipt of public funds.  
1227 b. The percentage of the total budget which is allocated to  
1228 assisting defendants obtain release through a nonpublicly funded



954436

1229 program.

1230 c. The amount of fees paid by defendants to the pretrial  
1231 release program.

1232 4. The number of persons employed by the pretrial release  
1233 program.

1234 5. The number of defendants assessed and interviewed for  
1235 pretrial release.

1236 6. The number of defendants recommended for pretrial  
1237 release.

1238 7. The number of defendants for whom the pretrial release  
1239 program recommended against nonsecured release.

1240 8. The number of defendants granted nonsecured release  
1241 after the pretrial release program recommended nonsecured  
1242 release.

1243 9. The number of defendants assessed and interviewed for  
1244 pretrial release who were declared indigent by the court.

1245 10. The number of defendants accepted into a pretrial  
1246 release program who paid a surety or cash bail or bond.

1247 11. The number of defendants for whom a risk assessment  
1248 tool was used in determining whether the defendant should be  
1249 released pending the disposition of the case and the number of  
1250 defendants for whom a risk assessment tool was not used.

1251 12. The specific statutory citation for each criminal  
1252 charge related to a defendant whose case is accepted into a  
1253 pretrial release program, including, at a minimum, the number of  
1254 defendants charged with dangerous crimes as defined in s.  
1255 907.041; nonviolent felonies; or misdemeanors only. A  
1256 "nonviolent felony" for purposes of this subparagraph excludes  
1257 the commission of, an attempt to commit, or a conspiracy to



954436

1258 commit any of the following:  
1259       a. An offense enumerated in s. 775.084(1)(c);  
1260       b. An offense that requires a person to register as a  
1261 sexual predator in accordance with s. 775.21 or as a sexual  
1262 offender in accordance with s. 943.0435;  
1263       c. Failure to register as a sexual predator in violation of  
1264 s. 775.21 or as a sexual offender in violation of s. 943.0435;  
1265       d. Facilitating or furthering terrorism in violation of s.  
1266 775.31;  
1267       e. A forcible felony as described in s. 776.08;  
1268       f. False imprisonment in violation of s. 787.02;  
1269       g. Burglary of a dwelling or residence in violation of s.  
1270 810.02(3);  
1271       h. Abuse, aggravated abuse, and neglect of an elderly  
1272 person or disabled adult in violation of s. 825.102;  
1273       i. Abuse, aggravated abuse, and neglect of a child in  
1274 violation of s. 827.03;  
1275       j. Poisoning of food or water in violation of s. 859.01;  
1276       k. Abuse of a dead human body in violation of s. 872.06;  
1277       l. A capital offense in violation of chapter 893;  
1278       m. An offense that results in serious bodily injury or  
1279 death to another human; or  
1280       n. A felony offense in which the defendant used a weapon or  
1281 firearm in the commission of the offense.  
1282       13. The number of defendants accepted into a pretrial  
1283 release program with no prior criminal conviction.  
1284       14. The name and case number of each person granted  
1285 nonsecured release who:  
1286       a. Failed to attend a scheduled court appearance.



954436

1287           b. Was issued a warrant for failing to appear.  
1288           c. Was arrested for any offense while on release through  
1289 the pretrial release program.  
1290           15. Any additional information deemed necessary by the  
1291 governing body to assess the performance and cost efficiency of  
1292 the pretrial release program.  
1293           Section 29. For the purpose of incorporating the amendment  
1294 made by this act to section 775.21, Florida Statutes, in a  
1295 reference thereto, paragraph (o) of subsection (6) of section  
1296 921.141, Florida Statutes, is reenacted to read:  
1297           921.141 Sentence of death or life imprisonment for capital  
1298 felonies; further proceedings to determine sentence.-  
1299           (6) AGGRAVATING FACTORS.-Aggravating factors shall be  
1300 limited to the following:  
1301           (o) The capital felony was committed by a person designated  
1302 as a sexual predator pursuant to s. 775.21 or a person  
1303 previously designated as a sexual predator who had the sexual  
1304 predator designation removed.  
1305           Section 30. For the purpose of incorporating the amendment  
1306 made by this act to section 775.21 and 943.0435, Florida  
1307 Statutes, in a reference thereto, Subsection (1) of section  
1308 938.10, Florida Statutes, is reenacted to read:  
1309           938.10 Additional court cost imposed in cases of certain  
1310 crimes.-  
1311           (1) If a person pleads guilty or nolo contendere to, or is  
1312 found guilty of, regardless of adjudication, any offense against  
1313 a minor in violation of s. 784.085, chapter 787, chapter 794,  
1314 former s. 796.03, former s. 796.035, s. 800.04, chapter 827, s.  
1315 847.012, s. 847.0133, s. 847.0135(5), s. 847.0138, s. 847.0145,



1316 s. 893.147(3), or s. 985.701, or any offense in violation of s.  
1317 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the  
1318 court shall impose a court cost of \$151 against the offender in  
1319 addition to any other cost or penalty required by law.

1320 Section 31. For the purpose of incorporating the amendment  
1321 made by this act to section 775.21, Florida Statutes, in a  
1322 reference thereto, paragraphs (a), (d), (e), (f), (g), and (i)  
1323 of subsection (1) and subsection (5) of section 943.0435,  
1324 Florida Statutes, are reenacted to read:

1325 943.0435 Sexual offenders required to register with the  
1326 department; penalty.—

1327 (1) As used in this section, the term:

1328 (a) "Change in status at an institution of higher  
1329 education" has the same meaning as provided in s. 775.21.

1330 (d) "Institution of higher education" has the same meaning  
1331 as provided in s. 775.21.

1332 (e) "Internet identifier" has the same meaning as provided  
1333 in s. 775.21.

1334 (f) "Permanent residence," "temporary residence," and  
1335 "transient residence" have the same meaning as provided in s.  
1336 775.21.

1337 (g) "Professional license" has the same meaning as provided  
1338 in s. 775.21.

1339 (i) "Vehicles owned" has the same meaning as provided in s.  
1340 775.21.

1341 (5) This section does not apply to a sexual offender who is  
1342 also a sexual predator, as defined in s. 775.21. A sexual  
1343 predator must register as required under s. 775.21.

1344 Section 32. For the purpose of incorporating the amendment



954436

1345 made by this act to section 943.0435, Florida Statutes, in a  
1346 reference thereto, Subsection (2) of section 943.0436, Florida  
1347 Statutes, is reenacted to read:

1348 943.0436 Duty of the court to uphold laws governing sexual  
1349 predators and sexual offenders.—

1350 (2) If a person meets the criteria in chapter 775 for  
1351 designation as a sexual predator or meets the criteria in s.  
1352 943.0435, s. 944.606, s. 944.607, or any other law for  
1353 classification as a sexual offender, the court may not enter an  
1354 order, for the purpose of approving a plea agreement or for any  
1355 other reason, which:

1356 (a) Exempts a person who meets the criteria for designation  
1357 as a sexual predator or classification as a sexual offender from  
1358 such designation or classification, or exempts such person from  
1359 the requirements for registration or community and public  
1360 notification imposed upon sexual predators and sexual offenders;

1361 (b) Restricts the compiling, reporting, or release of  
1362 public records information that relates to sexual predators or  
1363 sexual offenders; or

1364 (c) Prevents any person or entity from performing its  
1365 duties or operating within its statutorily conferred authority  
1366 as such duty or authority relates to sexual predators or sexual  
1367 offenders.

1368 Section 33. For the purpose of incorporating the amendment  
1369 made by this act to section 775.21, Florida Statutes, in a  
1370 reference thereto, Subsection (2) of section 943.0437, Florida  
1371 Statutes, is reenacted to read:

1372 943.0437 Commercial social networking websites.—

1373 (2) The department may provide information relating to



954436

1374 electronic mail addresses and Internet identifiers, as defined  
1375 in s. 775.21, maintained as part of the sexual offender registry  
1376 to commercial social networking websites or third parties  
1377 designated by commercial social networking websites. The  
1378 commercial social networking website may use this information  
1379 for the purpose of comparing registered users and screening  
1380 potential users of the commercial social networking website  
1381 against the list of electronic mail addresses and Internet  
1382 identifiers provided by the department.

1383 Section 34. For the purpose of incorporating the amendment  
1384 made by this act to section 775.21 and 943.0435, Florida  
1385 Statutes, in a reference thereto, paragraph (hh) of subsection  
1386 (2) of section 943.0584, Florida Statutes, is reenacted to read:

1387 943.0584 Criminal history records ineligible for court-  
1388 ordered expunction or court-ordered sealing.—

1389 (2) A criminal history record is ineligible for a  
1390 certificate of eligibility for expunction or a court-ordered  
1391 expunction pursuant to s. 943.0585 or a certificate of  
1392 eligibility for sealing or a court-ordered sealing pursuant to  
1393 s. 943.059 if the record is a conviction for any of the  
1394 following offenses:

1395 (hh) Any violation specified as a predicate offense for  
1396 registration as a sexual predator pursuant to s. 775.21, or  
1397 sexual offender pursuant to s. 943.0435, without regard to  
1398 whether that offense alone is sufficient to require such  
1399 registration.

1400 Section 35. For the purpose of incorporating the amendment  
1401 made by this act to section 775.21, Florida Statutes, in a  
1402 reference thereto, paragraphs (c), (d), and (e) of subsection



954436

1403 (1) of section 944.606, Florida Statutes, are reenacted to read:

1404 944.606 Sexual offenders; notification upon release.—

1405 (1) As used in this section, the term:

1406 (c) "Internet identifier" has the same meaning as provided  
1407 in s. 775.21.

1408 (d) "Permanent residence," "temporary residence," and  
1409 "transient residence" have the same meaning as provided in s.  
1410 775.21.

1411 (e) "Professional license" has the same meaning as provided  
1412 in s. 775.21.

1413 Section 36. For the purpose of incorporating the amendment  
1414 made by this act to section 775.21, Florida Statutes, in a  
1415 reference thereto, paragraphs (a), (d), (e), and (g) of  
1416 subsection (1) of section 944.607, Florida Statutes, are  
1417 reenacted to read:

1418 944.607 Notification to Department of Law Enforcement of  
1419 information on sexual offenders.—

1420 (1) As used in this section, the term:

1421 (a) "Change in status at an institution of higher  
1422 education" has the same meaning as provided in s. 775.21.

1423 (d) "Institution of higher education" has the same meaning  
1424 as provided in s. 775.21.

1425 (e) "Internet identifier" has the same meaning as provided  
1426 in s. 775.21.

1427 (g) "Vehicles owned" has the same meaning as provided in s.  
1428 775.21.

1429 Section 37. For the purpose of incorporating the amendment  
1430 made by this act to section 775.21 and 943.0435, Florida  
1431 Statutes, in a reference thereto, paragraph (a) of subsection



954436

1432 (4) and subsection (9) of section 944.607, Florida Statutes, is  
1433 reenacted to read:

1434 944.607 Notification to Department of Law Enforcement of  
1435 information on sexual offenders.—

1436 (4) A sexual offender, as described in this section, who is  
1437 under the supervision of the Department of Corrections but is  
1438 not incarcerated shall register with the Department of  
1439 Corrections within 3 business days after sentencing for a  
1440 registrable offense and otherwise provide information as  
1441 required by this subsection.

1442 (a) The sexual offender shall provide his or her name; date  
1443 of birth; social security number; race; sex; height; weight;  
1444 hair and eye color; tattoos or other identifying marks; all  
1445 electronic mail addresses and Internet identifiers required to  
1446 be provided pursuant to s. 943.0435(4) (e); employment  
1447 information required to be provided pursuant to s.  
1448 943.0435(4) (e); all home telephone numbers and cellular  
1449 telephone numbers required to be provided pursuant to s.  
1450 943.0435(4) (e); the make, model, color, vehicle identification  
1451 number (VIN), and license tag number of all vehicles owned;  
1452 permanent or legal residence and address of temporary residence  
1453 within the state or out of state while the sexual offender is  
1454 under supervision in this state, including any rural route  
1455 address or post office box; if no permanent or temporary  
1456 address, any transient residence within the state; and address,  
1457 location or description, and dates of any current or known  
1458 future temporary residence within the state or out of state. The  
1459 sexual offender shall also produce his or her passport, if he or  
1460 she has a passport, and, if he or she is an alien, shall produce



1461 or provide information about documents establishing his or her  
1462 immigration status. The sexual offender shall also provide  
1463 information about any professional licenses he or she has. The  
1464 Department of Corrections shall verify the address of each  
1465 sexual offender in the manner described in ss. 775.21 and  
1466 943.0435. The department shall report to the Department of Law  
1467 Enforcement any failure by a sexual predator or sexual offender  
1468 to comply with registration requirements.

1469 (9) A sexual offender, as described in this section, who is  
1470 under the supervision of the Department of Corrections but who  
1471 is not incarcerated shall, in addition to the registration  
1472 requirements provided in subsection (4), register and obtain a  
1473 distinctive driver license or identification card in the manner  
1474 provided in s. 943.0435(3), (4), and (5), unless the sexual  
1475 offender is a sexual predator, in which case he or she shall  
1476 register and obtain a distinctive driver license or  
1477 identification card as required under s. 775.21. A sexual  
1478 offender who fails to comply with the requirements of s.  
1479 943.0435 is subject to the penalties provided in s. 943.0435(9).

1480 Section 38. For the purpose of incorporating the amendment  
1481 made by this act to section 775.21, Florida Statutes, in a  
1482 reference thereto, Subsection (7) of section 944.608, Florida  
1483 Statutes, is reenacted to read:

1484 944.608 Notification to Department of Law Enforcement of  
1485 information on career offenders.—

1486 (7) A career offender who is under the supervision of the  
1487 department but who is not incarcerated shall, in addition to the  
1488 registration requirements provided in subsection (3), register  
1489 in the manner provided in s. 775.261(4)(c), unless the career



954436

1490 offender is a sexual predator, in which case he or she shall  
1491 register as required under s. 775.21, or is a sexual offender,  
1492 in which case he or she shall register as required in s.  
1493 944.607. A career offender who fails to comply with the  
1494 requirements of s. 775.261(4) is subject to the penalties  
1495 provided in s. 775.261(8).

1496 Section 39. For the purpose of incorporating the amendment  
1497 made by this act to section 775.21, Florida Statutes, in a  
1498 reference thereto, Subsection (4) of section 944.609, Florida  
1499 Statutes, is reenacted to read:

1500 944.609 Career offenders; notification upon release.—

1501 (4) The department or any law enforcement agency may notify  
1502 the community and the public of a career offender's presence in  
1503 the community. However, with respect to a career offender who  
1504 has been found to be a sexual predator under s. 775.21, the  
1505 Department of Law Enforcement or any other law enforcement  
1506 agency must inform the community and the public of the career  
1507 offender's presence in the community, as provided in s. 775.21.

1508 Section 40. For the purpose of incorporating the amendment  
1509 made by this act to section 775.21, Florida Statutes, in a  
1510 reference thereto, paragraph (c) of subsection (2) and  
1511 subsection (10) of section 947.1405, Florida Statutes, is  
1512 reenacted to read:

1513 947.1405 Conditional release program.—

1514 (2) Any inmate who:

1515 (c) Is found to be a sexual predator under s. 775.21 or  
1516 former s. 775.23,

1517  
1518 shall, upon reaching the tentative release date or provisional



954436

1519 release date, whichever is earlier, as established by the  
1520 Department of Corrections, be released under supervision subject  
1521 to specified terms and conditions, including payment of the cost  
1522 of supervision pursuant to s. 948.09. Such supervision shall be  
1523 applicable to all sentences within the overall term of sentences  
1524 if an inmate's overall term of sentences includes one or more  
1525 sentences that are eligible for conditional release supervision  
1526 as provided herein. Effective July 1, 1994, and applicable for  
1527 offenses committed on or after that date, the commission may  
1528 require, as a condition of conditional release, that the  
1529 releasee make payment of the debt due and owing to a county or  
1530 municipal detention facility under s. 951.032 for medical care,  
1531 treatment, hospitalization, or transportation received by the  
1532 releasee while in that detention facility. The commission, in  
1533 determining whether to order such repayment and the amount of  
1534 such repayment, shall consider the amount of the debt, whether  
1535 there was any fault of the institution for the medical expenses  
1536 incurred, the financial resources of the releasee, the present  
1537 and potential future financial needs and earning ability of the  
1538 releasee, and dependents, and other appropriate factors. If any  
1539 inmate placed on conditional release supervision is also subject  
1540 to probation or community control, resulting from a probationary  
1541 or community control split sentence within the overall term of  
1542 sentences, the Department of Corrections shall supervise such  
1543 person according to the conditions imposed by the court and the  
1544 commission shall defer to such supervision. If the court revokes  
1545 probation or community control and resentences the offender to a  
1546 term of incarceration, such revocation also constitutes a  
1547 sufficient basis for the revocation of the conditional release



954436

1548 supervision on any nonprobationary or noncommunity control  
1549 sentence without further hearing by the commission. If any such  
1550 supervision on any nonprobationary or noncommunity control  
1551 sentence is revoked, such revocation may result in a forfeiture  
1552 of all gain-time, and the commission may revoke the resulting  
1553 deferred conditional release supervision or take other action it  
1554 considers appropriate. If the term of conditional release  
1555 supervision exceeds that of the probation or community control,  
1556 then, upon expiration of the probation or community control,  
1557 authority for the supervision shall revert to the commission and  
1558 the supervision shall be subject to the conditions imposed by  
1559 the commission. A panel of no fewer than two commissioners shall  
1560 establish the terms and conditions of any such release. If the  
1561 offense was a controlled substance violation, the conditions  
1562 shall include a requirement that the offender submit to random  
1563 substance abuse testing intermittently throughout the term of  
1564 conditional release supervision, upon the direction of the  
1565 correctional probation officer as defined in s. 943.10(3). The  
1566 commission shall also determine whether the terms and conditions  
1567 of such release have been violated and whether such violation  
1568 warrants revocation of the conditional release.

1569 (10) Effective for a releasee whose crime was committed on  
1570 or after September 1, 2005, in violation of chapter 794, s.  
1571 800.04(4), (5), or (6), s. 827.071, or s. 847.0145, and the  
1572 unlawful activity involved a victim who was 15 years of age or  
1573 younger and the offender is 18 years of age or older or for a  
1574 releasee who is designated as a sexual predator pursuant to s.  
1575 775.21, in addition to any other provision of this section, the  
1576 commission must order electronic monitoring for the duration of



954436

1577 the releasee's supervision.

1578 Section 41. For the purpose of incorporating the amendment  
1579 made by this act to section 775.21 and 943.0435, Florida  
1580 Statutes, in a reference thereto, Subsection (4) of section  
1581 948.06, Florida Statutes, is reenacted to read:

1582 948.06 Violation of probation or community control;  
1583 revocation; modification; continuance; failure to pay  
1584 restitution or cost of supervision.—

1585 (4) Notwithstanding any other provision of this section, a  
1586 felony probationer or an offender in community control who is  
1587 arrested for violating his or her probation or community control  
1588 in a material respect may be taken before the court in the  
1589 county or circuit in which the probationer or offender was  
1590 arrested. That court shall advise him or her of the charge of a  
1591 violation and, if such charge is admitted, shall cause him or  
1592 her to be brought before the court that granted the probation or  
1593 community control. If the violation is not admitted by the  
1594 probationer or offender, the court may commit him or her or  
1595 release him or her with or without bail to await further  
1596 hearing. However, if the probationer or offender is under  
1597 supervision for any criminal offense proscribed in chapter 794,  
1598 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
1599 registered sexual predator or a registered sexual offender, or  
1600 is under supervision for a criminal offense for which he or she  
1601 would meet the registration criteria in s. 775.21, s. 943.0435,  
1602 or s. 944.607 but for the effective date of those sections, the  
1603 court must make a finding that the probationer or offender is  
1604 not a danger to the public prior to release with or without  
1605 bail. In determining the danger posed by the offender's or



1606 probationer's release, the court may consider the nature and  
1607 circumstances of the violation and any new offenses charged; the  
1608 offender's or probationer's past and present conduct, including  
1609 convictions of crimes; any record of arrests without conviction  
1610 for crimes involving violence or sexual crimes; any other  
1611 evidence of allegations of unlawful sexual conduct or the use of  
1612 violence by the offender or probationer; the offender's or  
1613 probationer's family ties, length of residence in the community,  
1614 employment history, and mental condition; his or her history and  
1615 conduct during the probation or community control supervision  
1616 from which the violation arises and any other previous  
1617 supervisions, including disciplinary records of previous  
1618 incarcerations; the likelihood that the offender or probationer  
1619 will engage again in a criminal course of conduct; the weight of  
1620 the evidence against the offender or probationer; and any other  
1621 facts the court considers relevant. The court, as soon as is  
1622 practicable, shall give the probationer or offender an  
1623 opportunity to be fully heard on his or her behalf in person or  
1624 by counsel. After the hearing, the court shall make findings of  
1625 fact and forward the findings to the court that granted the  
1626 probation or community control and to the probationer or  
1627 offender or his or her attorney. The findings of fact by the  
1628 hearing court are binding on the court that granted the  
1629 probation or community control. Upon the probationer or offender  
1630 being brought before it, the court that granted the probation or  
1631 community control may revoke, modify, or continue the probation  
1632 or community control or may place the probationer into community  
1633 control as provided in this section. However, the probationer or  
1634 offender shall not be released and shall not be admitted to



954436

1635 bail, but shall be brought before the court that granted the  
1636 probation or community control if any violation of felony  
1637 probation or community control other than a failure to pay costs  
1638 or fines or make restitution payments is alleged to have been  
1639 committed by:

1640 (a) A violent felony offender of special concern, as  
1641 defined in this section;

1642 (b) A person who is on felony probation or community  
1643 control for any offense committed on or after the effective date  
1644 of this act and who is arrested for a qualifying offense as  
1645 defined in this section; or

1646 (c) A person who is on felony probation or community  
1647 control and has previously been found by a court to be a  
1648 habitual violent felony offender as defined in s. 775.084(1)(b),  
1649 a three-time violent felony offender as defined in s.  
1650 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
1651 arrested for committing a qualifying offense as defined in this  
1652 section on or after the effective date of this act.

1653 Section 42. For the purpose of incorporating the amendment  
1654 made by this act to section 775.21, Florida Statutes, in a  
1655 reference thereto, paragraph (c) of subsection (4) and  
1656 paragraphs (b) and (d) of subsection (8) of section 948.06,  
1657 Florida Statutes, are reenacted to read:

1658 948.06 Violation of probation or community control;  
1659 revocation; modification; continuance; failure to pay  
1660 restitution or cost of supervision.—

1661 (4) Notwithstanding any other provision of this section, a  
1662 felony probationer or an offender in community control who is  
1663 arrested for violating his or her probation or community control



954436

1664 in a material respect may be taken before the court in the  
1665 county or circuit in which the probationer or offender was  
1666 arrested. That court shall advise him or her of the charge of a  
1667 violation and, if such charge is admitted, shall cause him or  
1668 her to be brought before the court that granted the probation or  
1669 community control. If the violation is not admitted by the  
1670 probationer or offender, the court may commit him or her or  
1671 release him or her with or without bail to await further  
1672 hearing. However, if the probationer or offender is under  
1673 supervision for any criminal offense proscribed in chapter 794,  
1674 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
1675 registered sexual predator or a registered sexual offender, or  
1676 is under supervision for a criminal offense for which he or she  
1677 would meet the registration criteria in s. 775.21, s. 943.0435,  
1678 or s. 944.607 but for the effective date of those sections, the  
1679 court must make a finding that the probationer or offender is  
1680 not a danger to the public prior to release with or without  
1681 bail. In determining the danger posed by the offender's or  
1682 probationer's release, the court may consider the nature and  
1683 circumstances of the violation and any new offenses charged; the  
1684 offender's or probationer's past and present conduct, including  
1685 convictions of crimes; any record of arrests without conviction  
1686 for crimes involving violence or sexual crimes; any other  
1687 evidence of allegations of unlawful sexual conduct or the use of  
1688 violence by the offender or probationer; the offender's or  
1689 probationer's family ties, length of residence in the community,  
1690 employment history, and mental condition; his or her history and  
1691 conduct during the probation or community control supervision  
1692 from which the violation arises and any other previous



954436

1693 supervisions, including disciplinary records of previous  
1694 incarcerations; the likelihood that the offender or probationer  
1695 will engage again in a criminal course of conduct; the weight of  
1696 the evidence against the offender or probationer; and any other  
1697 facts the court considers relevant. The court, as soon as is  
1698 practicable, shall give the probationer or offender an  
1699 opportunity to be fully heard on his or her behalf in person or  
1700 by counsel. After the hearing, the court shall make findings of  
1701 fact and forward the findings to the court that granted the  
1702 probation or community control and to the probationer or  
1703 offender or his or her attorney. The findings of fact by the  
1704 hearing court are binding on the court that granted the  
1705 probation or community control. Upon the probationer or offender  
1706 being brought before it, the court that granted the probation or  
1707 community control may revoke, modify, or continue the probation  
1708 or community control or may place the probationer into community  
1709 control as provided in this section. However, the probationer or  
1710 offender shall not be released and shall not be admitted to  
1711 bail, but shall be brought before the court that granted the  
1712 probation or community control if any violation of felony  
1713 probation or community control other than a failure to pay costs  
1714 or fines or make restitution payments is alleged to have been  
1715 committed by:

1716 (c) A person who is on felony probation or community  
1717 control and has previously been found by a court to be a  
1718 habitual violent felony offender as defined in s. 775.084(1)(b),  
1719 a three-time violent felony offender as defined in s.  
1720 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
1721 arrested for committing a qualifying offense as defined in this



954436

1722 section on or after the effective date of this act.

1723 (8)

1724 (b) For purposes of this section and ss. 903.0351, 948.064,  
1725 and 921.0024, the term "violent felony offender of special  
1726 concern" means a person who is on:

1727 1. Felony probation or community control related to the  
1728 commission of a qualifying offense committed on or after the  
1729 effective date of this act;

1730 2. Felony probation or community control for any offense  
1731 committed on or after the effective date of this act, and has  
1732 previously been convicted of a qualifying offense;

1733 3. Felony probation or community control for any offense  
1734 committed on or after the effective date of this act, and is  
1735 found to have violated that probation or community control by  
1736 committing a qualifying offense;

1737 4. Felony probation or community control and has previously  
1738 been found by a court to be a habitual violent felony offender  
1739 as defined in s. 775.084(1)(b) and has committed a qualifying  
1740 offense on or after the effective date of this act;

1741 5. Felony probation or community control and has previously  
1742 been found by a court to be a three-time violent felony offender  
1743 as defined in s. 775.084(1)(c) and has committed a qualifying  
1744 offense on or after the effective date of this act; or

1745 6. Felony probation or community control and has previously  
1746 been found by a court to be a sexual predator under s. 775.21  
1747 and has committed a qualifying offense on or after the effective  
1748 date of this act.

1749 (d) In the case of an alleged violation of probation or  
1750 community control other than a failure to pay costs, fines, or



954436

1751 restitution, the following individuals shall remain in custody  
1752 pending the resolution of the probation or community control  
1753 violation:

1754 1. A violent felony offender of special concern, as defined  
1755 in this section;

1756 2. A person who is on felony probation or community control  
1757 for any offense committed on or after the effective date of this  
1758 act and who is arrested for a qualifying offense as defined in  
1759 this section; or

1760 3. A person who is on felony probation or community control  
1761 and has previously been found by a court to be a habitual  
1762 violent felony offender as defined in s. 775.084(1)(b), a three-  
1763 time violent felony offender as defined in s. 775.084(1)(c), or  
1764 a sexual predator under s. 775.21, and who is arrested for  
1765 committing a qualifying offense as defined in this section on or  
1766 after the effective date of this act.

1767  
1768 The court shall not dismiss the probation or community control  
1769 violation warrant pending against an offender enumerated in this  
1770 paragraph without holding a recorded violation-of-probation  
1771 hearing at which both the state and the offender are  
1772 represented.

1773 Section 43. For the purpose of incorporating the amendment  
1774 made by this act to section 775.21 and 943.0435, Florida  
1775 Statutes, in a reference thereto, Section 948.063, Florida  
1776 Statutes, is reenacted to read:

1777 948.063 Violations of probation or community control by  
1778 designated sexual offenders and sexual predators.—

1779 (1) If probation or community control for any felony



954436

1780 offense is revoked by the court pursuant to s. 948.06(2)(e) and  
1781 the offender is designated as a sexual offender pursuant to s.  
1782 943.0435 or s. 944.607 or as a sexual predator pursuant to s.  
1783 775.21 for unlawful sexual activity involving a victim 15 years  
1784 of age or younger and the offender is 18 years of age or older,  
1785 and if the court imposes a subsequent term of supervision  
1786 following the revocation of probation or community control, the  
1787 court must order electronic monitoring as a condition of the  
1788 subsequent term of probation or community control.

1789 (2) If the probationer or offender is required to register  
1790 as a sexual predator under s. 775.21 or as a sexual offender  
1791 under s. 943.0435 or s. 944.607 for unlawful sexual activity  
1792 involving a victim 15 years of age or younger and the  
1793 probationer or offender is 18 years of age or older and has  
1794 violated the conditions of his or her probation or community  
1795 control, but the court does not revoke the probation or  
1796 community control, the court shall nevertheless modify the  
1797 probation or community control to include electronic monitoring  
1798 for any probationer or offender not then subject to electronic  
1799 monitoring.

1800 Section 44. For the purpose of incorporating the amendment  
1801 made by this act to section 775.21, Florida Statutes, in a  
1802 reference thereto, Subsection (4) of section 948.064, Florida  
1803 Statutes, is reenacted to read:

1804 948.064 Notification of status as a violent felony offender  
1805 of special concern.—

1806 (4) The state attorney, or the statewide prosecutor if  
1807 applicable, shall advise the court at each critical stage in the  
1808 judicial process, at which the state attorney or statewide



954436

1809 prosecutor is represented, whether an alleged or convicted  
1810 offender is a violent felony offender of special concern; a  
1811 person who is on felony probation or community control for any  
1812 offense committed on or after the effective date of this act and  
1813 who is arrested for a qualifying offense; or a person who is on  
1814 felony probation or community control and has previously been  
1815 found by a court to be a habitual violent felony offender as  
1816 defined in s. 775.084(1)(b), a three-time violent felony  
1817 offender as defined in s. 775.084(1)(c), or a sexual predator  
1818 under s. 775.21, and who is arrested for committing a qualifying  
1819 offense on or after the effective date of this act.

1820 Section 45. For the purpose of incorporating the amendment  
1821 made by this act to section 775.21, Florida Statutes, in a  
1822 reference thereto, Subsection (3) of section 948.12, Florida  
1823 Statutes, is reenacted to read:

1824 948.12 Intensive supervision for postprison release of  
1825 violent offenders.—It is the finding of the Legislature that the  
1826 population of violent offenders released from state prison into  
1827 the community poses the greatest threat to the public safety of  
1828 the groups of offenders under community supervision. Therefore,  
1829 for the purpose of enhanced public safety, any offender released  
1830 from state prison who:

1831 (3) Has been found to be a sexual predator pursuant to s.  
1832 775.21,

1833  
1834 and who has a term of probation to follow the period of  
1835 incarceration shall be provided intensive supervision by  
1836 experienced correctional probation officers. Subject to specific  
1837 appropriation by the Legislature, caseloads may be restricted to



1838 a maximum of 40 offenders per officer to provide for enhanced  
1839 public safety as well as to effectively monitor conditions of  
1840 electronic monitoring or curfews, if such was ordered by the  
1841 court.

1842 Section 46. For the purpose of incorporating the amendment  
1843 made by this act to section 775.21, Florida Statutes, in a  
1844 reference thereto, paragraph (b) of subsection (3) of section  
1845 948.30, Florida Statutes, is reenacted to read:

1846 948.30 Additional terms and conditions of probation or  
1847 community control for certain sex offenses.—Conditions imposed  
1848 pursuant to this section do not require oral pronouncement at  
1849 the time of sentencing and shall be considered standard  
1850 conditions of probation or community control for offenders  
1851 specified in this section.

1852 (3) Effective for a probationer or community controllee  
1853 whose crime was committed on or after September 1, 2005, and  
1854 who:

1855 (b) Is designated a sexual predator pursuant to s. 775.21;  
1856 or

1857  
1858 the court must order, in addition to any other provision of this  
1859 section, mandatory electronic monitoring as a condition of the  
1860 probation or community control supervision.

1861 Section 47. For the purpose of incorporating the amendment  
1862 made by this act to section 775.21 and 943.0435, Florida  
1863 Statutes, in a reference thereto, Section 948.31, Florida  
1864 Statutes, is reenacted to read:

1865 948.31 Evaluation and treatment of sexual predators and  
1866 offenders on probation or community control.—The court may



954436

1867 require any probationer or community controllee who is required  
1868 to register as a sexual predator under s. 775.21 or sexual  
1869 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo  
1870 an evaluation, at the probationer or community controllee's  
1871 expense, by a qualified practitioner to determine whether such  
1872 probationer or community controllee needs sexual offender  
1873 treatment. If the qualified practitioner determines that sexual  
1874 offender treatment is needed and recommends treatment, the  
1875 probationer or community controllee must successfully complete  
1876 and pay for the treatment. Such treatment must be obtained from  
1877 a qualified practitioner as defined in s. 948.001. Treatment may  
1878 not be administered by a qualified practitioner who has been  
1879 convicted or adjudicated delinquent of committing, or  
1880 attempting, soliciting, or conspiring to commit, any offense  
1881 that is listed in s. 943.0435(1)(h)1.a.(I).

1882 Section 48. For the purpose of incorporating the amendment  
1883 made by this act to section 775.21 and 943.0435, Florida  
1884 Statutes, in a reference thereto, paragraph (b) of subsection  
1885 (6) of section 985.04, Florida Statutes, is reenacted to read:

1886 985.04 Oaths; records; confidential information.—

1887 (6)

1888 (b) Sexual offender and predator registration information  
1889 as required in ss. 775.21, 943.0435, 944.606, 944.607, 985.481,  
1890 and 985.4815 is a public record pursuant to s. 119.07(1) and as  
1891 otherwise provided by law.

1892 Section 49. For the purpose of incorporating the amendment  
1893 made by this act to section 943.0435, Florida Statutes, in a  
1894 reference thereto, paragraph (a) of subsection (1) of section  
1895 985.481, Florida Statutes, is reenacted to read:



954436

1896           985.481 Sexual offenders adjudicated delinquent;  
1897 notification upon release.—

1898           (1) As used in this section:

1899           (a) "Convicted" has the same meaning as provided in s.  
1900 943.0435.

1901           Section 50. For the purpose of incorporating the amendment  
1902 made by this act to section 775.21, Florida Statutes, in a  
1903 reference thereto, paragraphs (c), (d), (e), and (g) of  
1904 subsection (1) of section 985.481, Florida Statutes, are  
1905 reenacted to read:

1906           985.481 Sexual offenders adjudicated delinquent;  
1907 notification upon release.—

1908           (1) As used in this section:

1909           (c) "Internet identifier" has the same meaning as provided  
1910 in s. 775.21.

1911           (d) "Permanent residence," "temporary residence," and  
1912 "transient residence" have the same meaning as provided in s.  
1913 775.21.

1914           (e) "Professional license" has the same meaning as provided  
1915 in s. 775.21.

1916           (g) "Vehicles owned" has the same meaning as provided in s.  
1917 775.21.

1918           Section 51. For the purpose of incorporating the amendment  
1919 made by this act to section 775.21, Florida Statutes, in a  
1920 reference thereto, paragraph (a) of subsection (1) of section  
1921 985.4815, Florida Statutes, is reenacted to read:

1922           985.4815 Notification to Department of Law Enforcement of  
1923 information on juvenile sexual offenders.—

1924           (1) As used in this section, the term:



954436

1925 (a) "Change in status at an institution of higher  
1926 education" has the same meaning as provided in s. 775.21.

1927 Section 52. For the purpose of incorporating the amendment  
1928 made by this act to section 943.0435, Florida Statutes, in a  
1929 reference thereto, paragraph (b) of subsection (1) of section  
1930 985.4815, Florida Statutes, is reenacted to read:

1931 985.4815 Notification to Department of Law Enforcement of  
1932 information on juvenile sexual offenders.—

1933 (1) As used in this section, the term:

1934 (b) "Conviction" has the same meaning as provided in s.  
1935 943.0435.

1936 Section 53. For the purpose of incorporating the amendment  
1937 made by this act to section 775.21, Florida Statutes, in a  
1938 reference thereto, paragraphs (d), (e), (f), (g), and (i) of  
1939 subsection (1) of section 985.4815, Florida Statutes, are  
1940 reenacted to read:

1941 985.4815 Notification to Department of Law Enforcement of  
1942 information on juvenile sexual offenders.—

1943 (1) As used in this section, the term:

1944 (d) "Institution of higher education" has the same meaning  
1945 as provided in s. 775.21.

1946 (e) "Internet identifier" has the same meaning as provided  
1947 in s. 775.21.

1948 (f) "Permanent residence," "temporary residence," and  
1949 "transient residence" have the same meaning as provided in s.  
1950 775.21.

1951 (g) "Professional license" has the same meaning as provided  
1952 in s. 775.21.

1953 (i) "Vehicles owned" has the same meaning as provided in s.



954436

1954 775.21.

1955 Section 54. For the purpose of incorporating the amendment  
1956 made by this act to section 775.21 and 943.0435, Florida  
1957 Statutes, in a reference thereto, Subsection (9) of section  
1958 985.4815, Florida Statutes, is reenacted to read:

1959 985.4815 Notification to Department of Law Enforcement of  
1960 information on juvenile sexual offenders.-

1961 (9) A sexual offender, as described in this section, who is  
1962 under the care, jurisdiction, or supervision of the department  
1963 but who is not incarcerated shall, in addition to the  
1964 registration requirements provided in subsection (4), register  
1965 in the manner provided in s. 943.0435(3), (4), and (5), unless  
1966 the sexual offender is a sexual predator, in which case he or  
1967 she shall register as required under s. 775.21. A sexual  
1968 offender who fails to comply with the requirements of s.  
1969 943.0435 is subject to the penalties provided in s. 943.0435(9).

1970 Section 55. For the purpose of incorporating the amendment  
1971 made by this act to section 943.0435, Florida Statutes, in a  
1972 reference thereto, paragraph (b) of subsection (1) of section  
1973 1012.467, Florida Statutes, is reenacted to read:

1974 1012.467 Noninstructional contractors who are permitted  
1975 access to school grounds when students are present; background  
1976 screening requirements.-

1977 (1) As used in this section, the term:

1978 (b) "Convicted" has the same meaning as in s. 943.0435.

1979 Section 56. For the purpose of incorporating the amendment  
1980 made by this act to sections 775.21(6), 775.21(10)(a),  
1981 775.21(10)(b), 775.21(10)(g), 943.0435(4)(c), 943.0435(7),  
1982 943.0435(8), 943.0435(9)(a), and 943.0435(13) Florida Statutes,



954436

1983 in a reference thereto, Subsection (1) of section 794.056,  
1984 Florida Statutes, is reenacted to read:

1985 794.056 Rape Crisis Program Trust Fund.—

1986 (1) The Rape Crisis Program Trust Fund is created within  
1987 the Department of Health for the purpose of providing funds for  
1988 rape crisis centers in this state. Trust fund moneys shall be  
1989 used exclusively for the purpose of providing services for  
1990 victims of sexual assault. Funds credited to the trust fund  
1991 consist of those funds collected as an additional court  
1992 assessment in each case in which a defendant pleads guilty or  
1993 nolo contendere to, or is found guilty of, regardless of  
1994 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
1995 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
1996 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
1997 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
1998 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
1999 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
2000 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
2001 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
2002 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.  
2003 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
2004 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
2005 fund also shall include revenues provided by law, moneys  
2006 appropriated by the Legislature, and grants from public or  
2007 private entities.

2008 Section 57. For the purpose of incorporating the amendment  
2009 made by this act to sections 775.21(6), 775.21(10)(a),  
2010 775.21(10)(g), 943.0435(8), 943.0435(9)(a), 943.0435(13), and  
2011 943.0435(14)(c) Florida Statutes, in a reference thereto,



954436

2012 Section 938.085, Florida Statutes, is reenacted to read:  
2013           938.085 Additional cost to fund rape crisis centers.—In  
2014 addition to any sanction imposed when a person pleads guilty or  
2015 nolo contendere to, or is found guilty of, regardless of  
2016 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
2017 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
2018 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
2019 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
2020 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
2021 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
2022 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
2023 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
2024 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
2025 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
2026 (14)(c); or s. 985.701(1), the court shall impose a surcharge of  
2027 \$151. Payment of the surcharge shall be a condition of  
2028 probation, community control, or any other court-ordered  
2029 supervision. The sum of \$150 of the surcharge shall be deposited  
2030 into the Rape Crisis Program Trust Fund established within the  
2031 Department of Health by chapter 2003-140, Laws of Florida. The  
2032 clerk of the court shall retain \$1 of each surcharge that the  
2033 clerk of the court collects as a service charge of the clerk's  
2034 office.

2035           Section 58. For the purpose of incorporating the amendment  
2036 made by this act to sections 775.21(4) and 943.0435(1)(h),  
2037 Florida Statutes, in a reference thereto, Subsection (3) of  
2038 section 903.133, Florida Statutes, is reenacted to read:

2039           903.133 Bail on appeal; prohibited for certain felony  
2040 convictions.—Notwithstanding s. 903.132, no person shall be



954436

2041 admitted to bail pending review either by posttrial motion or  
2042 appeal if he or she was adjudged guilty of:

2043 (3) Any other offense requiring sexual offender  
2044 registration under s. 943.0435(1)(h) or sexual predator  
2045 registration under s. 775.21(4) when, at the time of the  
2046 offense, the offender was 18 years of age or older and the  
2047 victim was a minor.

2048 Section 59. For the purpose of incorporating the amendment  
2049 made by this act to section 943.0435(1)(h)1., Florida Statutes,  
2050 in a reference thereto, paragraph (g) of subsection (2) of  
2051 section 1012.467, Florida Statutes, is reenacted to read:

2052 1012.467 Noninstructional contractors who are permitted  
2053 access to school grounds when students are present; background  
2054 screening requirements.—

2055 (2)

2056 (g) A noninstructional contractor for whom a criminal  
2057 history check is required under this section may not have been  
2058 convicted of any of the following offenses designated in the  
2059 Florida Statutes, any similar offense in another jurisdiction,  
2060 or any similar offense committed in this state which has been  
2061 redesignated from a former provision of the Florida Statutes to  
2062 one of the following offenses:

2063 1. Any offense listed in s. 943.0435(1)(h)1., relating to  
2064 the registration of an individual as a sexual offender.

2065 2. Section 393.135, relating to sexual misconduct with  
2066 certain developmentally disabled clients and the reporting of  
2067 such sexual misconduct.

2068 3. Section 394.4593, relating to sexual misconduct with  
2069 certain mental health patients and the reporting of such sexual



2070 misconduct.  
2071 4. Section 775.30, relating to terrorism.  
2072 5. Section 782.04, relating to murder.  
2073 6. Section 787.01, relating to kidnapping.  
2074 7. Any offense under chapter 800, relating to lewdness and  
2075 indecent exposure.

2076 8. Section 826.04, relating to incest.  
2077 9. Section 827.03, relating to child abuse, aggravated  
2078 child abuse, or neglect of a child.

2079 Section 60. For the purpose of incorporating the amendment  
2080 made by this act to section 943.0435(1)(h)1.a., Florida  
2081 Statutes, in a reference thereto, Subsection (2) of section  
2082 775.0862, Florida Statutes, is reenacted to read:

2083 775.0862 Sexual offenses against students by authority  
2084 figures; reclassification.—

2085 (2) The felony degree of a violation of an offense listed  
2086 in s. 943.0435(1)(h)1.a., unless the offense is a violation of  
2087 s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified  
2088 as provided in this section if the offense is committed by an  
2089 authority figure of a school against a student of the school.

2090 Section 61. For the purpose of incorporating the amendment  
2091 made by this act to sections 775.21(4)(a)1.a., 775.21(4)(a)1.b.,  
2092 and 943.0435(1)(h)1.a., Florida Statutes, in a reference  
2093 thereto, paragraph (b) of subsection (2) of section 948.013,  
2094 Florida Statutes, is reenacted to read:

2095 948.013 Administrative probation.—

2096 (2)

2097 (b) Effective for an offense committed on or after October  
2098 1, 2017, a person is ineligible for placement on administrative



954436

2099 probation if the person is sentenced to or is serving a term of  
2100 probation or community control, regardless of the conviction or  
2101 adjudication, for committing, or attempting, conspiring, or  
2102 soliciting to commit, any of the felony offenses described in s.  
2103 775.21(4)(a)1.a. or b. or s. 943.0435(1)(h)1.a.

2104 Section 62. For the purpose of incorporating the amendment  
2105 made by this act to section 943.0435(1)(h)1.a.(I), Florida  
2106 Statutes, in a reference thereto, paragraph (b) of subsection  
2107 (1) of section 92.55, Florida Statutes, is reenacted to read:

2108 92.55 Judicial or other proceedings involving victim or  
2109 witness under the age of 18, a person who has an intellectual  
2110 disability, or a sexual offense victim or witness; special  
2111 protections; use of therapy animals or facility dogs.—

2112 (1) For purposes of this section, the term:

2113 (b) "Sexual offense" means any offense specified in s.  
2114 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

2115 Section 63. For the purpose of incorporating the amendment  
2116 made by this act to section 943.0435(1)(h)1.a.(I), Florida  
2117 Statutes, in a reference thereto, paragraph (a) of subsection  
2118 (2) of section 934.255, Florida Statutes, is reenacted to read:

2119 934.255 Subpoenas in investigations of sexual offenses.—

2120 (2) An investigative or law enforcement officer who is  
2121 conducting an investigation into:

2122 (a) Allegations of the sexual abuse of a child or an  
2123 individual's suspected commission of a crime listed in s.  
2124 943.0435(1)(h)1.a.(I) may use a subpoena to compel the  
2125 production of records, documents, or other tangible objects and  
2126 the testimony of the subpoena recipient concerning the  
2127 production and authenticity of such records, documents, or



954436

2128 objects, except as provided in paragraphs (b) and (c).

2129

2130 A subpoena issued under this subsection must describe the  
2131 records, documents, or other tangible objects required to be  
2132 produced, and must prescribe a date by which such records,  
2133 documents, or other tangible objects must be produced.

2134 Section 64. For the purpose of incorporating the amendment  
2135 made by this act to section 943.0435(1)(h)1.a.(I), Florida  
2136 Statutes, in a reference thereto, paragraph (a) of subsection  
2137 (2) of section 943.0595, Florida Statutes, is reenacted to read:

2138 943.0595 Automatic sealing of criminal history records.—

2139 (2) ELIGIBILITY.—

2140 (a) The department shall automatically seal a criminal  
2141 history record that does not result from an indictment,  
2142 information, or other charging document for a forcible felony as  
2143 defined in s. 776.08 or for an offense enumerated in s.  
2144 943.0435(1)(h)1.a.(I), if:

2145 1. An indictment, information, or other charging document  
2146 was not filed or issued in the case giving rise to the criminal  
2147 history record.

2148 2. An indictment, information, or other charging document  
2149 was filed in the case giving rise to the criminal history  
2150 record, but was dismissed or nolle prosequi by the state  
2151 attorney or statewide prosecutor or was dismissed by a court of  
2152 competent jurisdiction. However, a person is not eligible for  
2153 automatic sealing under this section if the dismissal was  
2154 pursuant to s. 916.145 or s. 985.19.

2155 3. A not guilty verdict was rendered by a judge or jury.  
2156 However, a person is not eligible for automatic sealing under



954436

2157 this section if the defendant was found not guilty by reason of  
2158 insanity.

2159 4. A judgment of acquittal was rendered by a judge.

2160 Section 65. For the purpose of incorporating the amendment  
2161 made by this act to section 943.0435(1)(h)1.a.(I), Florida  
2162 Statutes, in a reference thereto, Subsection (12) of section  
2163 947.1405, Florida Statutes, is reenacted to read:

2164 947.1405 Conditional release program.—

2165 (12) In addition to all other conditions imposed, for a  
2166 releasee who is subject to conditional release for a crime that  
2167 was committed on or after May 26, 2010, and who has been  
2168 convicted at any time of committing, or attempting, soliciting,  
2169 or conspiring to commit, any of the criminal offenses listed in  
2170 s. 943.0435(1)(h)1.a.(I), or a similar offense in another  
2171 jurisdiction against a victim who was under 18 years of age at  
2172 the time of the offense, if the releasee has not received a  
2173 pardon for any felony or similar law of another jurisdiction  
2174 necessary for the operation of this subsection, if a conviction  
2175 of a felony or similar law of another jurisdiction necessary for  
2176 the operation of this subsection has not been set aside in any  
2177 postconviction proceeding, or if the releasee has not been  
2178 removed from the requirement to register as a sexual offender or  
2179 sexual predator pursuant to s. 943.04354, the commission must  
2180 impose the following conditions:

2181 (a) A prohibition on visiting schools, child care  
2182 facilities, parks, and playgrounds without prior approval from  
2183 the releasee's supervising officer. The commission may also  
2184 designate additional prohibited locations to protect a victim.  
2185 The prohibition ordered under this paragraph does not prohibit



954436

2186 the releasee from visiting a school, child care facility, park,  
2187 or playground for the sole purpose of attending a religious  
2188 service as defined in s. 775.0861 or picking up or dropping off  
2189 the releasee's child or grandchild at a child care facility or  
2190 school.

2191 (b) A prohibition on distributing candy or other items to  
2192 children on Halloween; wearing a Santa Claus costume, or other  
2193 costume to appeal to children, on or preceding Christmas;  
2194 wearing an Easter Bunny costume, or other costume to appeal to  
2195 children, on or preceding Easter; entertaining at children's  
2196 parties; or wearing a clown costume without prior approval from  
2197 the commission.

2198 Section 66. For the purpose of incorporating the amendment  
2199 made by this act to section 943.0435(1)(h)1.a.(I), Florida  
2200 Statutes, in a reference thereto, Subsection (4) of section  
2201 948.30, Florida Statutes, is reenacted to read:

2202 948.30 Additional terms and conditions of probation or  
2203 community control for certain sex offenses.—Conditions imposed  
2204 pursuant to this section do not require oral pronouncement at  
2205 the time of sentencing and shall be considered standard  
2206 conditions of probation or community control for offenders  
2207 specified in this section.

2208 (4) In addition to all other conditions imposed, for a  
2209 probationer or community controllee who is subject to  
2210 supervision for a crime that was committed on or after May 26,  
2211 2010, and who has been convicted at any time of committing, or  
2212 attempting, soliciting, or conspiring to commit, any of the  
2213 criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a  
2214 similar offense in another jurisdiction, against a victim who



954436

2215 was under the age of 18 at the time of the offense; if the  
2216 offender has not received a pardon for any felony or similar law  
2217 of another jurisdiction necessary for the operation of this  
2218 subsection, if a conviction of a felony or similar law of  
2219 another jurisdiction necessary for the operation of this  
2220 subsection has not been set aside in any postconviction  
2221 proceeding, or if the offender has not been removed from the  
2222 requirement to register as a sexual offender or sexual predator  
2223 pursuant to s. 943.04354, the court must impose the following  
2224 conditions:

2225 (a) A prohibition on visiting schools, child care  
2226 facilities, parks, and playgrounds, without prior approval from  
2227 the offender's supervising officer. The court may also designate  
2228 additional locations to protect a victim. The prohibition  
2229 ordered under this paragraph does not prohibit the offender from  
2230 visiting a school, child care facility, park, or playground for  
2231 the sole purpose of attending a religious service as defined in  
2232 s. 775.0861 or picking up or dropping off the offender's  
2233 children or grandchildren at a child care facility or school.

2234 (b) A prohibition on distributing candy or other items to  
2235 children on Halloween; wearing a Santa Claus costume, or other  
2236 costume to appeal to children, on or preceding Christmas;  
2237 wearing an Easter Bunny costume, or other costume to appeal to  
2238 children, on or preceding Easter; entertaining at children's  
2239 parties; or wearing a clown costume; without prior approval from  
2240 the court.

2241 Section 67. For the purpose of incorporating the amendment  
2242 made by this act to section 943.0435(1)(h)1.a.(I), Florida  
2243 Statutes, in a reference thereto, Section 948.31, Florida



954436

2244 Statutes, is reenacted to read:

2245           948.31 Evaluation and treatment of sexual predators and  
2246 offenders on probation or community control.—The court may  
2247 require any probationer or community controllee who is required  
2248 to register as a sexual predator under s. 775.21 or sexual  
2249 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo  
2250 an evaluation, at the probationer or community controllee's  
2251 expense, by a qualified practitioner to determine whether such  
2252 probationer or community controllee needs sexual offender  
2253 treatment. If the qualified practitioner determines that sexual  
2254 offender treatment is needed and recommends treatment, the  
2255 probationer or community controllee must successfully complete  
2256 and pay for the treatment. Such treatment must be obtained from  
2257 a qualified practitioner as defined in s. 948.001. Treatment may  
2258 not be administered by a qualified practitioner who has been  
2259 convicted or adjudicated delinquent of committing, or  
2260 attempting, soliciting, or conspiring to commit, any offense  
2261 that is listed in s. 943.0435(1)(h)1.a.(I).

2262           Section 68. For the purpose of incorporating the amendment  
2263 made by this act to section 943.0435(1)(h)1.d., Florida  
2264 Statutes, in a reference thereto, Subsection (3) of section  
2265 943.0515, Florida Statutes, is reenacted to read:

2266           943.0515 Retention of criminal history records of minors.—

2267           (3) Notwithstanding any other provision of this section,  
2268 the Criminal Justice Information Program shall retain the  
2269 criminal history record of a minor adjudicated delinquent for a  
2270 violation committed on or after July 1, 2007, as provided in s.  
2271 943.0435(1)(h)1.d. Such records may not be destroyed and must be  
2272 merged with the person's adult criminal history record and



954436

2273 retained as a part of the person's adult record.

2274 Section 69. For the purpose of incorporating the amendment  
2275 made by this act to section 943.0435(1)(h)1.d., Florida  
2276 Statutes, in a reference thereto, paragraph (f) of subsection  
2277 (1) of section 985.481, Florida Statutes, is reenacted to read:

2278 985.481 Sexual offenders adjudicated delinquent;  
2279 notification upon release.-

2280 (1) As used in this section:

2281 (f) "Sexual offender" means a person who has been  
2282 adjudicated delinquent as provided in s. 943.0435(1)(h)1.d.

2283 Section 70. For the purpose of incorporating the amendment  
2284 made by this act to section 943.0435(1)(h)1.d., Florida  
2285 Statutes, in a reference thereto, paragraph (h) of subsection  
2286 (1) of section 985.4815, Florida Statutes, is reenacted to read:

2287 985.4815 Notification to Department of Law Enforcement of  
2288 information on juvenile sexual offenders.-

2289 (1) As used in this section, the term:

2290 (h) "Sexual offender" means a person who is in the care or  
2291 custody or under the jurisdiction or supervision of the  
2292 department or is in the custody of a private correctional  
2293 facility and who:

2294 1. Has been adjudicated delinquent as provided in s.  
2295 943.0435(1)(h)1.d.; or

2296 2. Establishes or maintains a residence in this state and  
2297 has not been designated as a sexual predator by a court of this  
2298 state but has been designated as a sexual predator, as a  
2299 sexually violent predator, or by another sexual offender  
2300 designation in another state or jurisdiction and was, as a  
2301 result of such designation, subjected to registration or



954436

2302 community or public notification, or both, or would be if the  
2303 person were a resident of that state or jurisdiction, without  
2304 regard to whether the person otherwise meets the criteria for  
2305 registration as a sexual offender.

2306 Section 71. For the purpose of incorporating the amendment  
2307 made by this act to section 943.0435(1)(h)1.d., Florida  
2308 Statutes, in a reference thereto, Subsection (4) of section  
2309 1012.315, Florida Statutes, is reenacted to read:

2310 1012.315 Disqualification from employment.—A person is  
2311 ineligible for educator certification or employment in any  
2312 position that requires direct contact with students in a  
2313 district school system, charter school, or private school that  
2314 accepts scholarship students who participate in a state  
2315 scholarship program under chapter 1002 if the person has been  
2316 convicted of:

2317 (4) Any delinquent act committed in this state or any  
2318 delinquent or criminal act committed in another state or under  
2319 federal law which, if committed in this state, qualifies an  
2320 individual for inclusion on the Registered Juvenile Sex Offender  
2321 List under s. 943.0435(1)(h)1.d.

2322  
2323 Section 72. For the purpose of incorporating the amendment  
2324 made by this act to section 943.0435(2), Florida Statutes, in a  
2325 reference thereto, paragraph (c) of subsection (10) of section  
2326 944.607, Florida Statutes, is reenacted to read:

2327 944.607 Notification to Department of Law Enforcement of  
2328 information on sexual offenders.—

2329 (10)

2330 (c) An arrest on charges of failure to register when the



954436

2331 offender has been provided and advised of his or her statutory  
2332 obligations to register under s. 943.0435(2), the service of an  
2333 information or a complaint for a violation of this section, or  
2334 an arraignment on charges for a violation of this section  
2335 constitutes actual notice of the duty to register. A sexual  
2336 offender's failure to immediately register as required by this  
2337 section following such arrest, service, or arraignment  
2338 constitutes grounds for a subsequent charge of failure to  
2339 register. A sexual offender charged with the crime of failure to  
2340 register who asserts, or intends to assert, a lack of notice of  
2341 the duty to register as a defense to a charge of failure to  
2342 register shall immediately register as required by this section.  
2343 A sexual offender who is charged with a subsequent failure to  
2344 register may not assert the defense of a lack of notice of the  
2345 duty to register.

2346 Section 73. For the purpose of incorporating the amendment  
2347 made by this act to section 943.0435(2), Florida Statutes, in a  
2348 reference thereto, paragraph (c) of subsection (10) of section  
2349 985.4815, Florida Statutes, is reenacted to read:

2350 985.4815 Notification to Department of Law Enforcement of  
2351 information on juvenile sexual offenders.—

2352 (10)

2353 (c) An arrest on charges of failure to register when the  
2354 offender has been provided and advised of his or her statutory  
2355 obligations to register under s. 943.0435(2), the service of an  
2356 information or a complaint for a violation of this section, or  
2357 an arraignment on charges for a violation of this section  
2358 constitutes actual notice of the duty to register. A sexual  
2359 offender's failure to immediately register as required by this



954436

2360 section following such arrest, service, or arraignment  
2361 constitutes grounds for a subsequent charge of failure to  
2362 register. A sexual offender charged with the crime of failure to  
2363 register who asserts, or intends to assert, a lack of notice of  
2364 the duty to register as a defense to a charge of failure to  
2365 register shall immediately register as required by this section.  
2366 A sexual offender who is charged with a subsequent failure to  
2367 register may not assert the defense of a lack of notice of the  
2368 duty to register.

2369 Section 74. For the purpose of incorporating the amendment  
2370 made by this act to section 943.0435(3), Florida Statutes, in a  
2371 reference thereto, Subsection (9) of section 944.607, Florida  
2372 Statutes, is reenacted to read:

2373 944.607 Notification to Department of Law Enforcement of  
2374 information on sexual offenders.—

2375 (9) A sexual offender, as described in this section, who is  
2376 under the supervision of the Department of Corrections but who  
2377 is not incarcerated shall, in addition to the registration  
2378 requirements provided in subsection (4), register and obtain a  
2379 distinctive driver license or identification card in the manner  
2380 provided in s. 943.0435(3), (4), and (5), unless the sexual  
2381 offender is a sexual predator, in which case he or she shall  
2382 register and obtain a distinctive driver license or  
2383 identification card as required under s. 775.21. A sexual  
2384 offender who fails to comply with the requirements of s.  
2385 943.0435 is subject to the penalties provided in s. 943.0435(9).

2386 Section 75. For the purpose of incorporating the amendment  
2387 made by this act to section 943.0435(3), Florida Statutes, in a  
2388 reference thereto, Subsection (9) of section 985.4815, Florida



954436

2389 Statutes, is reenacted to read:

2390 985.4815 Notification to Department of Law Enforcement of  
2391 information on juvenile sexual offenders.—

2392 (9) A sexual offender, as described in this section, who is  
2393 under the care, jurisdiction, or supervision of the department  
2394 but who is not incarcerated shall, in addition to the  
2395 registration requirements provided in subsection (4), register  
2396 in the manner provided in s. 943.0435(3), (4), and (5), unless  
2397 the sexual offender is a sexual predator, in which case he or  
2398 she shall register as required under s. 775.21. A sexual  
2399 offender who fails to comply with the requirements of s.  
2400 943.0435 is subject to the penalties provided in s. 943.0435(9).

2401 Section 76. For the purpose of incorporating the amendment  
2402 made by this act to section 943.0435(4), Florida Statutes, in a  
2403 reference thereto, Subsection (9) of section 944.607, Florida  
2404 Statutes, is reenacted to read:

2405 944.607 Notification to Department of Law Enforcement of  
2406 information on sexual offenders.—

2407 (9) A sexual offender, as described in this section, who is  
2408 under the supervision of the Department of Corrections but who  
2409 is not incarcerated shall, in addition to the registration  
2410 requirements provided in subsection (4), register and obtain a  
2411 distinctive driver license or identification card in the manner  
2412 provided in s. 943.0435(3), (4), and (5), unless the sexual  
2413 offender is a sexual predator, in which case he or she shall  
2414 register and obtain a distinctive driver license or  
2415 identification card as required under s. 775.21. A sexual  
2416 offender who fails to comply with the requirements of s.  
2417 943.0435 is subject to the penalties provided in s. 943.0435(9).



954436

2418 Section 77. For the purpose of incorporating the amendment  
2419 made by this act to section 943.0435(4), Florida Statutes, in a  
2420 reference thereto, Subsection (9) of section 985.4815, Florida  
2421 Statutes, is reenacted to read:

2422 985.4815 Notification to Department of Law Enforcement of  
2423 information on juvenile sexual offenders.—

2424 (9) A sexual offender, as described in this section, who is  
2425 under the care, jurisdiction, or supervision of the department  
2426 but who is not incarcerated shall, in addition to the  
2427 registration requirements provided in subsection (4), register  
2428 in the manner provided in s. 943.0435(3), (4), and (5), unless  
2429 the sexual offender is a sexual predator, in which case he or  
2430 she shall register as required under s. 775.21. A sexual  
2431 offender who fails to comply with the requirements of s.  
2432 943.0435 is subject to the penalties provided in s. 943.0435(9).

2433 Section 78. For the purpose of incorporating the amendment  
2434 made by this act to sections 775.21(10)(a), 775.21(10)(b),  
2435 775.21(10)(g), 943.0435(4)(c), 943.0435(8), 943.0435(9)(a),  
2436 943.0435(13), and 943.0435(14) Florida Statutes, in a reference  
2437 thereto, paragraph (g) of subsection (3) of section 921.0022,  
2438 Florida Statutes, is reenacted to read:

2439 921.0022 Criminal Punishment Code; offense severity ranking  
2440 chart.—

2441 (3) OFFENSE SEVERITY RANKING CHART

2442 (g) LEVEL 7

2443

Florida Statute	Felony Degree	Description
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2444



954436

2445	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
2446	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
2447	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
2448	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
2449	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
	409.920	3rd	Medicaid provider fraud;



954436

2450	(2) (b) 1.a.		\$10,000 or less.
	409.920	2nd	Medicaid provider fraud;
	(2) (b) 1.b.		more than \$10,000, but less than \$50,000.
2451			
	456.065 (2)	3rd	Practicing a health care profession without a license.
2452			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
2453			
	458.327 (1)	3rd	Practicing medicine without a license.
2454			
	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
2455			
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
2456			
	461.012 (1)	3rd	Practicing podiatric medicine without a license.



954436

2457	462.17	3rd	Practicing naturopathy without a license.
2458	463.015 (1)	3rd	Practicing optometry without a license.
2459	464.016 (1)	3rd	Practicing nursing without a license.
2460	465.015 (2)	3rd	Practicing pharmacy without a license.
2461	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
2462	467.201	3rd	Practicing midwifery without a license.
2463	468.366	3rd	Delivering respiratory care services without a license.
2464	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
2465	483.901 (7)	3rd	Practicing medical physics



954436

2466			without a license.
	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
2467			
	484.053	3rd	Dispensing hearing aids without a license.
2468			
	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
2469			
	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
2470			
	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
2471			



954436

2472	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
2473	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
2474	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
2475	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
2476	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
	782.07 (1)	2nd	Killing of a human being



954436

2477			by the act, procurement, or culpable negligence of another (manslaughter).
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
2478			
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
2479			
	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
2480			
	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
2481			
	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
2482			
	784.048 (4)	3rd	Aggravated stalking;



954436

2483			violation of injunction or court order.
	784.048 (7)	3rd	Aggravated stalking; violation of court order.
2484			
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
2485			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
2486			
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
2487			
	784.081 (1)	1st	Aggravated battery on specified official or employee.
2488			
	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
2489			
	784.083 (1)	1st	Aggravated battery on code inspector.
2490			
	787.06 (3) (a) 2.	1st	Human trafficking using



954436

2491	787.06(3)(e)2.	1st	coercion for labor and services of an adult. Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
2492	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
2493	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
2494	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
2495	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
2496			



954436

2497	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
2498	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
2499	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
2500	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
2501	796.05 (1)	1st	Live on earnings of a prostitute; 2nd offense.
	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and



954436

2502	800.04 (5) (c) 1.	2nd	subsequent offense. Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
2503	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
2504	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
2505	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
2506	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no



954436

2507			assault or battery.
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
2508			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
2509			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
2510			
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
2511			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
2512			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd



954436

2513			degree grand theft.
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
2514			
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
2515			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
2516			
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
2517			
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
2518			
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
2519			
	817.234 (8) (a)	2nd	Solicitation of motor



954436

2520			vehicle accident victims with intent to defraud.
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
2521			
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
2522			
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
2523			
	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
2524			
	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
2525			
	825.102 (3) (b)	2nd	Neglecting an elderly



954436

2526			person or disabled adult causing great bodily harm, disability, or disfigurement.
	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
2527			
	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
2528			
	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
2529			
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
2530			
	838.015	2nd	Bribery.
2531			
	838.016	2nd	Unlawful compensation or



954436

2532			reward for official behavior.
	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
2533			
	838.22	2nd	Bid tampering.
2534			
	843.0855 (2)	3rd	Impersonation of a public officer or employee.
2535			
	843.0855 (3)	3rd	Unlawful simulation of legal process.
2536			
	843.0855 (4)	3rd	Intimidation of a public officer or employee.
2537			
	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
2538			
	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
2539			
	872.06	2nd	Abuse of a dead human body.
2540			



954436

2541	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
2542	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
2543	893.13 (1) (c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13 (1) (e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s.



954436

			893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)5., within 1,000 feet of property used for religious services or a specified business site.
2544	893.13(4) (a)	1st	Use or hire of minor; deliver to minor other controlled substance.
2545	893.135(1) (a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
2546	893.135 (1) (b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
2547	893.135 (1) (c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
2548	893.135 (1) (c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
2549	893.135 (1) (c)2.b.	1st	Trafficking in hydrocodone, 50 grams or



954436

2550	893.135 (1) (c) 3.a.	1st	more, less than 100 grams. Trafficking in oxycodone, 7 grams or more, less than 14 grams.
2551	893.135 (1) (c) 3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
2552	893.135 (1) (c) 4.b. (I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
2553	893.135 (1) (d) 1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
2554	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
2555	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
2556	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or



954436

2557			more, less than 14 grams.
	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
2558			
	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
2559			
	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
2560			
	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
2561			
	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
2562			
	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100



954436

2563			grams.
	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
2564			
	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
2565			
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
2566			
	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
2567			
	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.



954436

2568	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
2569	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
2570	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
2571	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
2572	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
2573	944.607 (12)	3rd	Failure to report or providing false information about a sexual



954436

2574			offender; harbor or conceal a sexual offender.
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
2575			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
2576			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
2577			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
2578			
2579			
2580			



954436

2581           Section 79. For the purpose of incorporating the amendment  
2582 made by this act to sections 775.21(10)(b) and 943.0435(4)(c),  
2583 Florida Statutes, in a reference thereto, Section 938.085,  
2584 Florida Statutes, is reenacted to read:

2585           938.085 Additional cost to fund rape crisis centers.—In  
2586 addition to any sanction imposed when a person pleads guilty or  
2587 nolo contendere to, or is found guilty of, regardless of  
2588 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
2589 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
2590 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
2591 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
2592 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
2593 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
2594 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
2595 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
2596 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
2597 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
2598 (14)(c); or s. 985.701(1), the court shall impose a surcharge of  
2599 \$151. Payment of the surcharge shall be a condition of  
2600 probation, community control, or any other court-ordered  
2601 supervision. The sum of \$150 of the surcharge shall be deposited  
2602 into the Rape Crisis Program Trust Fund established within the  
2603 Department of Health by chapter 2003-140, Laws of Florida. The  
2604 clerk of the court shall retain \$1 of each surcharge that the  
2605 clerk of the court collects as a service charge of the clerk's  
2606 office.

2607           Section 80. For the purpose of incorporating the amendment  
2608 made by this act to section 943.0435(4)(e), Florida Statutes, in  
2609 a reference thereto, paragraph (a) of subsection (3) of section



954436

2610 944.606, Florida Statutes, is reenacted to read:  
2611 944.606 Sexual offenders; notification upon release.—  
2612 (3) (a) The department shall provide information regarding  
2613 any sexual offender who is being released after serving a period  
2614 of incarceration for any offense, as follows:  
2615 1. The department shall provide: the sexual offender's  
2616 name, any change in the offender's name by reason of marriage or  
2617 other legal process, and any alias, if known; the correctional  
2618 facility from which the sexual offender is released; the sexual  
2619 offender's social security number, race, sex, date of birth,  
2620 height, weight, and hair and eye color; tattoos or other  
2621 identifying marks; address of any planned permanent residence or  
2622 temporary residence, within the state or out of state, including  
2623 a rural route address and a post office box; if no permanent or  
2624 temporary address, any transient residence within the state;  
2625 address, location or description, and dates of any known future  
2626 temporary residence within the state or out of state; date and  
2627 county of sentence and each crime for which the offender was  
2628 sentenced; a copy of the offender's fingerprints, palm prints,  
2629 and a digitized photograph taken within 60 days before release;  
2630 the date of release of the sexual offender; all electronic mail  
2631 addresses and all Internet identifiers required to be provided  
2632 pursuant to s. 943.0435(4) (e); employment information, if known,  
2633 provided pursuant to s. 943.0435(4) (e); all home telephone  
2634 numbers and cellular telephone numbers required to be provided  
2635 pursuant to s. 943.0435(4) (e); information about any  
2636 professional licenses the offender has, if known; and passport  
2637 information, if he or she has a passport, and, if he or she is  
2638 an alien, information about documents establishing his or her



954436

2639 immigration status. The department shall notify the Department  
2640 of Law Enforcement if the sexual offender escapes, absconds, or  
2641 dies. If the sexual offender is in the custody of a private  
2642 correctional facility, the facility shall take the digitized  
2643 photograph of the sexual offender within 60 days before the  
2644 sexual offender's release and provide this photograph to the  
2645 Department of Corrections and also place it in the sexual  
2646 offender's file. If the sexual offender is in the custody of a  
2647 local jail, the custodian of the local jail shall register the  
2648 offender within 3 business days after intake of the offender for  
2649 any reason and upon release, and shall notify the Department of  
2650 Law Enforcement of the sexual offender's release and provide to  
2651 the Department of Law Enforcement the information specified in  
2652 this paragraph and any information specified in subparagraph 2.  
2653 that the Department of Law Enforcement requests.

2654 2. The department may provide any other information deemed  
2655 necessary, including criminal and corrections records,  
2656 nonprivileged personnel and treatment records, when available.

2657 Section 81. For the purpose of incorporating the amendment  
2658 made by this act to section 943.0435(4)(e), Florida Statutes, in  
2659 a reference thereto, paragraphs (a) and (b) of subsection (4)  
2660 and paragraph (c) of subsection (13) of section 944.607, Florida  
2661 Statutes, are reenacted to read:

2662 944.607 Notification to Department of Law Enforcement of  
2663 information on sexual offenders.—

2664 (4) A sexual offender, as described in this section, who is  
2665 under the supervision of the Department of Corrections but is  
2666 not incarcerated shall register with the Department of  
2667 Corrections within 3 business days after sentencing for a



954436

2668 registrable offense and otherwise provide information as  
2669 required by this subsection.

2670 (a) The sexual offender shall provide his or her name; date  
2671 of birth; social security number; race; sex; height; weight;  
2672 hair and eye color; tattoos or other identifying marks; all  
2673 electronic mail addresses and Internet identifiers required to  
2674 be provided pursuant to s. 943.0435(4) (e); employment  
2675 information required to be provided pursuant to s.  
2676 943.0435(4) (e); all home telephone numbers and cellular  
2677 telephone numbers required to be provided pursuant to s.  
2678 943.0435(4) (e); the make, model, color, vehicle identification  
2679 number (VIN), and license tag number of all vehicles owned;  
2680 permanent or legal residence and address of temporary residence  
2681 within the state or out of state while the sexual offender is  
2682 under supervision in this state, including any rural route  
2683 address or post office box; if no permanent or temporary  
2684 address, any transient residence within the state; and address,  
2685 location or description, and dates of any current or known  
2686 future temporary residence within the state or out of state. The  
2687 sexual offender shall also produce his or her passport, if he or  
2688 she has a passport, and, if he or she is an alien, shall produce  
2689 or provide information about documents establishing his or her  
2690 immigration status. The sexual offender shall also provide  
2691 information about any professional licenses he or she has. The  
2692 Department of Corrections shall verify the address of each  
2693 sexual offender in the manner described in ss. 775.21 and  
2694 943.0435. The department shall report to the Department of Law  
2695 Enforcement any failure by a sexual predator or sexual offender  
2696 to comply with registration requirements.



954436

2697 (b) If the sexual offender is enrolled or employed, whether  
2698 for compensation or as a volunteer, at an institution of higher  
2699 education in this state, the sexual offender shall provide the  
2700 name, address, and county of each institution, including each  
2701 campus attended, and the sexual offender's enrollment,  
2702 volunteer, or employment status required to be provided pursuant  
2703 to s. 943.0435(4) (e). Each change in status at an institution of  
2704 higher education must be reported to the department within 48  
2705 hours after the change in status at an institution of higher  
2706 education as provided pursuant to s. 943.0435(4) (e). The  
2707 Department of Corrections shall promptly notify each institution  
2708 of the sexual offender's presence and any change in the sexual  
2709 offender's enrollment, volunteer, or employment status.

2710 (13)

2711 (c) The sheriff's office may determine the appropriate  
2712 times and days for reporting by the sexual offender, which must  
2713 be consistent with the reporting requirements of this  
2714 subsection. Reregistration must include any changes to the  
2715 following information:

2716 1. Name; social security number; age; race; sex; date of  
2717 birth; height; weight; tattoos or other identifying marks; hair  
2718 and eye color; address of any permanent residence and address of  
2719 any current temporary residence, within the state or out of  
2720 state, including a rural route address and a post office box; if  
2721 no permanent or temporary address, any transient residence;  
2722 address, location or description, and dates of any current or  
2723 known future temporary residence within the state or out of  
2724 state; all electronic mail addresses and Internet identifiers  
2725 required to be provided pursuant to s. 943.0435(4) (e); all home



954436

2726 telephone numbers and cellular telephone numbers required to be  
2727 provided pursuant to s. 943.0435(4)(e); employment information  
2728 required to be provided pursuant to s. 943.0435(4)(e); the make,  
2729 model, color, vehicle identification number (VIN), and license  
2730 tag number of all vehicles owned; fingerprints; palm prints; and  
2731 photograph. A post office box may not be provided in lieu of a  
2732 physical residential address. The sexual offender shall also  
2733 produce his or her passport, if he or she has a passport, and,  
2734 if he or she is an alien, shall produce or provide information  
2735 about documents establishing his or her immigration status. The  
2736 sexual offender shall also provide information about any  
2737 professional licenses he or she has.

2738         2. If the sexual offender is enrolled or employed, whether  
2739 for compensation or as a volunteer, at an institution of higher  
2740 education in this state, the sexual offender shall also provide  
2741 to the department the name, address, and county of each  
2742 institution, including each campus attended, and the sexual  
2743 offender's enrollment, volunteer, or employment status.

2744         3. If the sexual offender's place of residence is a motor  
2745 vehicle, trailer, mobile home, or manufactured home, as defined  
2746 in chapter 320, the sexual offender shall also provide the  
2747 vehicle identification number; the license tag number; the  
2748 registration number; and a description, including color scheme,  
2749 of the motor vehicle, trailer, mobile home, or manufactured  
2750 home. If the sexual offender's place of residence is a vessel,  
2751 live-aboard vessel, or houseboat, as defined in chapter 327, the  
2752 sexual offender shall also provide the hull identification  
2753 number; the manufacturer's serial number; the name of the  
2754 vessel, live-aboard vessel, or houseboat; the registration



954436

2755 number; and a description, including color scheme, of the  
2756 vessel, live-aboard vessel or houseboat.

2757 4. Any sexual offender who fails to report in person as  
2758 required at the sheriff's office, who fails to respond to any  
2759 address verification correspondence from the department within 3  
2760 weeks of the date of the correspondence, who fails to report all  
2761 electronic mail addresses or Internet identifiers before use, or  
2762 who knowingly provides false registration information by act or  
2763 omission commits a felony of the third degree, punishable as  
2764 provided in s. 775.082, s. 775.083, or s. 775.084.

2765 Section 82. For the purpose of incorporating the amendment  
2766 made by this act to section 943.0435(4)(e), Florida Statutes, in  
2767 a reference thereto, paragraph (a) of subsection (3) of section  
2768 985.481, Florida Statutes, is reenacted to read:

2769 985.481 Sexual offenders adjudicated delinquent;  
2770 notification upon release.—

2771 (3)(a) The department shall provide information regarding  
2772 any sexual offender who is being released after serving a period  
2773 of residential commitment under the department for any offense,  
2774 as follows:

2775 1. The department shall provide the sexual offender's name,  
2776 any change in the offender's name by reason of marriage or other  
2777 legal process, and any alias, if known; the correctional  
2778 facility from which the sexual offender is released; the sexual  
2779 offender's social security number, race, sex, date of birth,  
2780 height, weight, and hair and eye color; tattoos or other  
2781 identifying marks; the make, model, color, vehicle  
2782 identification number (VIN), and license tag number of all  
2783 vehicles owned; address of any planned permanent residence or



954436

2784 temporary residence, within the state or out of state, including  
2785 a rural route address and a post office box; if no permanent or  
2786 temporary address, any transient residence within the state;  
2787 address, location or description, and dates of any known future  
2788 temporary residence within the state or out of state; date and  
2789 county of disposition and each crime for which there was a  
2790 disposition; a copy of the offender's fingerprints, palm prints,  
2791 and a digitized photograph taken within 60 days before release;  
2792 the date of release of the sexual offender; all home telephone  
2793 numbers and cellular telephone numbers required to be provided  
2794 pursuant to s. 943.0435(4)(e); all electronic mail addresses and  
2795 Internet identifiers required to be provided pursuant to s.  
2796 943.0435(4)(e); information about any professional licenses the  
2797 offender has, if known; and passport information, if he or she  
2798 has a passport, and, if he or she is an alien, information about  
2799 documents establishing his or her immigration status. The  
2800 department shall notify the Department of Law Enforcement if the  
2801 sexual offender escapes, absconds, or dies. If the sexual  
2802 offender is in the custody of a private correctional facility,  
2803 the facility shall take the digitized photograph of the sexual  
2804 offender within 60 days before the sexual offender's release and  
2805 also place it in the sexual offender's file. If the sexual  
2806 offender is in the custody of a local jail, the custodian of the  
2807 local jail shall register the offender within 3 business days  
2808 after intake of the offender for any reason and upon release,  
2809 and shall notify the Department of Law Enforcement of the sexual  
2810 offender's release and provide to the Department of Law  
2811 Enforcement the information specified in this subparagraph and  
2812 any information specified in subparagraph 2. which the



954436

2813 Department of Law Enforcement requests.

2814         2. The department may provide any other information  
2815 considered necessary, including criminal and delinquency  
2816 records, when available.

2817         Section 83. For the purpose of incorporating the amendment  
2818 made by this act to section 943.0435(4)(e), Florida Statutes, in  
2819 a reference thereto, paragraph (a) of subsection (4) and  
2820 paragraph (b) of subsection (13) of section 985.4815, Florida  
2821 Statutes, is reenacted to read:

2822             985.4815 Notification to Department of Law Enforcement of  
2823 information on juvenile sexual offenders.—

2824             (4) A sexual offender, as described in this section, who is  
2825 under the supervision of the department but who is not committed  
2826 shall register with the department within 3 business days after  
2827 adjudication and disposition for a registrable offense and  
2828 otherwise provide information as required by this subsection.

2829             (a) The sexual offender shall provide his or her name; date  
2830 of birth; social security number; race; sex; height; weight;  
2831 hair and eye color; tattoos or other identifying marks; the  
2832 make, model, color, vehicle identification number (VIN), and  
2833 license tag number of all vehicles owned; permanent or legal  
2834 residence and address of temporary residence within the state or  
2835 out of state while the sexual offender is in the care or custody  
2836 or under the jurisdiction or supervision of the department in  
2837 this state, including any rural route address or post office  
2838 box; if no permanent or temporary address, any transient  
2839 residence; address, location or description, and dates of any  
2840 current or known future temporary residence within the state or  
2841 out of state; all home telephone numbers and cellular telephone



954436

2842 numbers required to be provided pursuant to s. 943.0435(4)(e);  
2843 all electronic mail addresses and Internet identifiers required  
2844 to be provided pursuant to s. 943.0435(4)(e); and the name and  
2845 address of each school attended. The sexual offender shall also  
2846 produce his or her passport, if he or she has a passport, and,  
2847 if he or she is an alien, shall produce or provide information  
2848 about documents establishing his or her immigration status. The  
2849 offender shall also provide information about any professional  
2850 licenses he or she has. The department shall verify the address  
2851 of each sexual offender and shall report to the Department of  
2852 Law Enforcement any failure by a sexual offender to comply with  
2853 registration requirements.

2854 (13)

2855 (b) The sheriff's office may determine the appropriate  
2856 times and days for reporting by the sexual offender, which must  
2857 be consistent with the reporting requirements of this  
2858 subsection. Reregistration must include any changes to the  
2859 following information:

2860 1. Name; social security number; age; race; sex; date of  
2861 birth; height; weight; hair and eye color; tattoos or other  
2862 identifying marks; fingerprints; palm prints; address of any  
2863 permanent residence and address of any current temporary  
2864 residence, within the state or out of state, including a rural  
2865 route address and a post office box; if no permanent or  
2866 temporary address, any transient residence; address, location or  
2867 description, and dates of any current or known future temporary  
2868 residence within the state or out of state; passport  
2869 information, if he or she has a passport, and, if he or she is  
2870 an alien, information about documents establishing his or her



954436

2871 immigration status; all home telephone numbers and cellular  
2872 telephone numbers required to be provided pursuant to s.  
2873 943.0435(4)(e); all electronic mail addresses and Internet  
2874 identifiers required to be provided pursuant to s.  
2875 943.0435(4)(e); name and address of each school attended;  
2876 employment information required to be provided pursuant to s.  
2877 943.0435(4)(e); the make, model, color, vehicle identification  
2878 number (VIN), and license tag number of all vehicles owned; and  
2879 photograph. A post office box may not be provided in lieu of a  
2880 physical residential address. The offender shall also provide  
2881 information about any professional licenses he or she has.

2882         2. If the sexual offender is enrolled or employed, whether  
2883 for compensation or as a volunteer, at an institution of higher  
2884 education in this state, the sexual offender shall also provide  
2885 to the department the name, address, and county of each  
2886 institution, including each campus attended, and the sexual  
2887 offender's enrollment, volunteer, or employment status.

2888         3. If the sexual offender's place of residence is a motor  
2889 vehicle, trailer, mobile home, or manufactured home, as defined  
2890 in chapter 320, the sexual offender shall also provide the  
2891 vehicle identification number; the license tag number; the  
2892 registration number; and a description, including color scheme,  
2893 of the motor vehicle, trailer, mobile home, or manufactured  
2894 home. If the sexual offender's place of residence is a vessel,  
2895 live-aboard vessel, or houseboat, as defined in chapter 327, the  
2896 sexual offender shall also provide the hull identification  
2897 number; the manufacturer's serial number; the name of the  
2898 vessel, live-aboard vessel, or houseboat; the registration  
2899 number; and a description, including color scheme, of the



954436

2900 vessel, live-aboard vessel, or houseboat.

2901 4. Any sexual offender who fails to report in person as  
2902 required at the sheriff's office, who fails to respond to any  
2903 address verification correspondence from the department within 3  
2904 weeks after the date of the correspondence, or who knowingly  
2905 provides false registration information by act or omission  
2906 commits a felony of the third degree, punishable as provided in  
2907 ss. 775.082, 775.083, and 775.084.

2908 Section 84. For the purpose of incorporating the amendment  
2909 made by this act to section 943.0435(5), Florida Statutes, in a  
2910 reference thereto, Subsection (9) of section 944.607, Florida  
2911 Statutes, is reenacted to read:

2912 944.607 Notification to Department of Law Enforcement of  
2913 information on sexual offenders.—

2914 (9) A sexual offender, as described in this section, who is  
2915 under the supervision of the Department of Corrections but who  
2916 is not incarcerated shall, in addition to the registration  
2917 requirements provided in subsection (4), register and obtain a  
2918 distinctive driver license or identification card in the manner  
2919 provided in s. 943.0435(3), (4), and (5), unless the sexual  
2920 offender is a sexual predator, in which case he or she shall  
2921 register and obtain a distinctive driver license or  
2922 identification card as required under s. 775.21. A sexual  
2923 offender who fails to comply with the requirements of s.  
2924 943.0435 is subject to the penalties provided in s. 943.0435(9).

2925 Section 85. For the purpose of incorporating the amendment  
2926 made by this act to section 943.0435(5), Florida Statutes, in a  
2927 reference thereto, Subsection (9) of section 985.4815, Florida  
2928 Statutes, is reenacted to read:



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2929           985.4815 Notification to Department of Law Enforcement of  
2930 information on juvenile sexual offenders.—

2931           (9) A sexual offender, as described in this section, who is  
2932 under the care, jurisdiction, or supervision of the department  
2933 but who is not incarcerated shall, in addition to the  
2934 registration requirements provided in subsection (4), register  
2935 in the manner provided in s. 943.0435(3), (4), and (5), unless  
2936 the sexual offender is a sexual predator, in which case he or  
2937 she shall register as required under s. 775.21. A sexual  
2938 offender who fails to comply with the requirements of s.  
2939 943.0435 is subject to the penalties provided in s. 943.0435(9).

2940           Section 86. For the purpose of incorporating the amendment  
2941 made by this act to section 943.0435(7), Florida Statutes, in a  
2942 reference thereto, Section 938.085, Florida Statutes, is  
2943 reenacted to read:

2944           938.085 Additional cost to fund rape crisis centers.—In  
2945 addition to any sanction imposed when a person pleads guilty or  
2946 nolo contendere to, or is found guilty of, regardless of  
2947 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and  
2948 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
2949 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
2950 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
2951 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
2952 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
2953 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
2954 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
2955 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
2956 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
2957 (14)(c); or s. 985.701(1), the court shall impose a surcharge of



954436

2958 \$151. Payment of the surcharge shall be a condition of  
2959 probation, community control, or any other court-ordered  
2960 supervision. The sum of \$150 of the surcharge shall be deposited  
2961 into the Rape Crisis Program Trust Fund established within the  
2962 Department of Health by chapter 2003-140, Laws of Florida. The  
2963 clerk of the court shall retain \$1 of each surcharge that the  
2964 clerk of the court collects as a service charge of the clerk's  
2965 office.

2966 Section 87. For the purpose of incorporating the amendment  
2967 made by this act to section 943.0435(9), Florida Statutes, in a  
2968 reference thereto, Subsection (9) of section 944.607, Florida  
2969 Statutes, is reenacted to read:

2970 944.607 Notification to Department of Law Enforcement of  
2971 information on sexual offenders.—

2972 (9) A sexual offender, as described in this section, who is  
2973 under the supervision of the Department of Corrections but who  
2974 is not incarcerated shall, in addition to the registration  
2975 requirements provided in subsection (4), register and obtain a  
2976 distinctive driver license or identification card in the manner  
2977 provided in s. 943.0435(3), (4), and (5), unless the sexual  
2978 offender is a sexual predator, in which case he or she shall  
2979 register and obtain a distinctive driver license or  
2980 identification card as required under s. 775.21. A sexual  
2981 offender who fails to comply with the requirements of s.  
2982 943.0435 is subject to the penalties provided in s. 943.0435(9).

2983 Section 88. For the purpose of incorporating the amendment  
2984 made by this act to section 943.0435(9), Florida Statutes, in a  
2985 reference thereto, Subsection (9) of section 985.4815, Florida  
2986 Statutes, is reenacted to read:



954436

2987           985.4815 Notification to Department of Law Enforcement of  
2988 information on juvenile sexual offenders.—

2989           (9) A sexual offender, as described in this section, who is  
2990 under the care, jurisdiction, or supervision of the department  
2991 but who is not incarcerated shall, in addition to the  
2992 registration requirements provided in subsection (4), register  
2993 in the manner provided in s. 943.0435(3), (4), and (5), unless  
2994 the sexual offender is a sexual predator, in which case he or  
2995 she shall register as required under s. 775.21. A sexual  
2996 offender who fails to comply with the requirements of s.  
2997 943.0435 is subject to the penalties provided in s. 943.0435(9).

2998           Section 89. For the purpose of incorporating the amendment  
2999 made by this act to sections 775.21(8) and 943.0435(14), Florida  
3000 Statutes, in a reference thereto, Subsection (4) of section  
3001 322.141, Florida Statutes, is reenacted to read:

3002           322.141 Color or markings of certain licenses or  
3003 identification cards.—

3004           (4) Unless previously secured or updated, each sexual  
3005 offender and sexual predator shall report to the department  
3006 during the month of his or her reregistration as required under  
3007 s. 775.21(8), s. 943.0435(14), or s. 944.607(13) in order to  
3008 obtain an updated or renewed driver license or identification  
3009 card as required by subsection (3).

3010           Section 90. For the purpose of incorporating the amendment  
3011 made by this act to section 943.0435(14)(c), Florida Statutes,  
3012 in a reference thereto, Subsection (1) of section 794.056,  
3013 Florida Statutes, is reenacted to read:

3014           794.056 Rape Crisis Program Trust Fund.—

3015           (1) The Rape Crisis Program Trust Fund is created within



954436

3016 the Department of Health for the purpose of providing funds for  
3017 rape crisis centers in this state. Trust fund moneys shall be  
3018 used exclusively for the purpose of providing services for  
3019 victims of sexual assault. Funds credited to the trust fund  
3020 consist of those funds collected as an additional court  
3021 assessment in each case in which a defendant pleads guilty or  
3022 nolo contendere to, or is found guilty of, regardless of  
3023 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
3024 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
3025 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
3026 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
3027 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
3028 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
3029 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
3030 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
3031 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.  
3032 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
3033 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
3034 fund also shall include revenues provided by law, moneys  
3035 appropriated by the Legislature, and grants from public or  
3036 private entities.

3037 Section 91. For the purpose of incorporating the amendment  
3038 made by this act to section 775.21(4)(a)1., Florida Statutes, in  
3039 a reference thereto, paragraph (b) of subsection (1) of section  
3040 92.55, Florida Statutes, is reenacted to read:

3041 92.55 Judicial or other proceedings involving victim or  
3042 witness under the age of 18, a person who has an intellectual  
3043 disability, or a sexual offense victim or witness; special  
3044 protections; use of therapy animals or facility dogs.-



954436

3045 (1) For purposes of this section, the term:  
3046 (b) "Sexual offense" means any offense specified in s.  
3047 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).  
3048 Section 92. For the purpose of incorporating the amendment  
3049 made by this act to section 775.21(4)(a)1., Florida Statutes, in  
3050 a reference thereto, paragraph (b) of subsection (3) of section  
3051 455.213, Florida Statutes, is reenacted to read:  
3052 455.213 General licensing provisions.—  
3053 (3)  
3054 (b)1. A conviction, or any other adjudication, for a crime  
3055 more than 5 years before the date the application is received by  
3056 the applicable board may not be grounds for denial of a license  
3057 specified in paragraph (a). For purposes of this paragraph, the  
3058 term "conviction" means a determination of guilt that is the  
3059 result of a plea or trial, regardless of whether adjudication is  
3060 withheld. This paragraph does not limit the applicable board  
3061 from considering an applicant's criminal history that includes a  
3062 crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but  
3063 only if such criminal history has been found to relate to the  
3064 practice of the applicable profession.  
3065 2. The applicable board may consider the criminal history  
3066 of an applicant for licensure under subparagraph (a)3. if such  
3067 criminal history has been found to relate to good moral  
3068 character.  
3069 Section 93. For the purpose of incorporating the amendment  
3070 made by this act to section 775.21(4)(a)1., Florida Statutes, in  
3071 a reference thereto, Subsection (7) of section 489.553, Florida  
3072 Statutes, is reenacted to read:  
3073 489.553 Administration of part; registration



954436

3074 qualifications; examination.-

3075 (7) Notwithstanding any other law, a conviction, or any  
3076 other adjudication, for a crime more than 5 years before the  
3077 date the application is received by the department or other  
3078 applicable authority may not be grounds for denial of  
3079 registration. For purposes of this subsection, the term  
3080 "conviction" means a determination of guilt that is the result  
3081 of a plea or trial, regardless of whether adjudication is  
3082 withheld. This subsection does not limit a board from  
3083 considering an applicant's criminal history that includes any  
3084 crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but  
3085 only if such criminal history has been found to relate to the  
3086 practice of the applicable profession, or any crime if it has  
3087 been found to relate to good moral character.

3088 Section 94. For the purpose of incorporating the amendment  
3089 made by this act to section 775.21(4)(a)1., Florida Statutes, in  
3090 a reference thereto, Subsection (9) of section 507.07, Florida  
3091 Statutes, is reenacted to read:

3092 507.07 Violations.—It is a violation of this chapter:

3093 (9) For a mover or a moving broker to knowingly refuse or  
3094 fail to disclose in writing to a customer before a household  
3095 move that the mover, or an employee or subcontractor of the  
3096 mover or moving broker, who has access to the dwelling or  
3097 property of the customer, including access to give a quote for  
3098 the move, has been convicted of a felony listed in s.  
3099 775.21(4)(a)1. or convicted of a similar offense of another  
3100 jurisdiction, regardless of when such felony offense was  
3101 committed.

3102 Section 95. This act shall take effect October 1, 2021.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to registration of sexual predators  
and sexual offenders; amending s. 775.21, F.S.,  
relating to registration of sexual predators;  
specifying how days are calculated for the purposes of  
determining permanent residence, temporary residence,  
and transient residence; authorizing reporting of  
certain registration information through the  
Department of Law Enforcement's online system;  
authorizing reporting of certain registration  
information through an authorized alternative method  
provided by the Department of Highway Safety and Motor  
Vehicles; requiring the reporting of certain vehicle  
information; clarifying registration requirement  
relating to the timing of reporting of international  
travel or a change of residence to another state;  
specifying that failure to report intended travel is  
punishable as provided; amending s. 943.0435, F.S.,  
relating to registration of sexual offenders; revising  
the definition of "sexual offender" to clarify release  
from sanction; authorizing reporting of certain  
registration information through the Department of Law  
Enforcement's online system; authorizing reporting of  
certain registration information through an authorized



954436

3132 alternative method provided by the Department of  
3133 Highway Safety and Motor Vehicles; requiring the  
3134 reporting of certain vehicle information; clarifying  
3135 registration requirement relating to the timing of  
3136 reporting of international travel or a change of  
3137 residence to another state; specifying that failure to  
3138 report intended travel is punishable as provided;  
3139 creating a process for a person to petition for relief  
3140 from registration if the person's requirement to  
3141 register is based solely upon a requirement to  
3142 register in another state for an offense that is not  
3143 similar to an offense requiring registration in this  
3144 state and whose registration in that other state is  
3145 held confidential, not for public release, and for  
3146 criminal justice purposes only; reenacting s. 39.0139,  
3147 F.S., relating to Visitation or other contact;  
3148 restrictions; reenacting s. 39.509, F.S., relating to  
3149 Grandparents rights; reenacting s. 39.806, F.S.,  
3150 relating to Grounds for termination of parental  
3151 rights; reenacting s. 61.13, F.S., relating to Support  
3152 of children; parenting and time-sharing; powers of  
3153 court; reenacting s. 63.089, F.S., relating to  
3154 Proceeding to terminate parental rights pending  
3155 adoption; hearing; grounds; dismissal of petition;  
3156 judgment; reenacting s. 63.092, F.S., relating to  
3157 Report to the court of intended placement by an  
3158 adoption entity; at-risk placement; preliminary study;  
3159 reenacting s. 68.07, F.S., relating to Change of name;  
3160 reenacting s. 68.07, F.S., relating to Change of name;



954436

3161 reenacting s. 98.0751, F.S., relating to Restoration  
3162 of voting rights; termination of ineligibility  
3163 subsequent to a felony conviction; reenacting s.  
3164 320.02, F.S., relating to Registration required;  
3165 application for registration; forms; reenacting s.  
3166 322.141, F.S., relating to Color or markings of  
3167 certain licenses or identification cards; reenacting  
3168 s. 322.19, F.S., relating to Change of address or  
3169 name; reenacting s. 394.9125, F.S., relating to State  
3170 attorney; authority to refer a person for civil  
3171 commitment; reenacting s. 397.487, F.S., relating to  
3172 Voluntary certification of recovery residences;  
3173 reenacting s. 435.07, F.S., relating to Exemptions  
3174 from disqualification; reenacting s. 775.13, F.S.,  
3175 relating to Registration of convicted felons,  
3176 exemptions; penalties; reenacting s. 775.13, F.S.,  
3177 relating to Registration of convicted felons,  
3178 exemptions; penalties; reenacting s. 775.21, F.S.,  
3179 relating to The Florida Sexual Predators Act;  
3180 reenacting s. 775.24, F.S., relating to Duty of the  
3181 court to uphold laws governing sexual predators and  
3182 sexual offenders; reenacting s. 775.25, F.S., relating  
3183 to Prosecutions for acts or omissions; reenacting s.  
3184 775.261, F.S., relating to The Florida Career Offender  
3185 Registration Act; reenacting s. 794.075, F.S.,  
3186 relating to Sexual predators; erectile dysfunction  
3187 drugs; reenacting s. 900.05, F.S., relating to  
3188 Criminal justice data collection; reenacting s.  
3189 903.0351, F.S., relating to Restrictions on pretrial



954436

3190 release pending probation-violation hearing or  
3191 community-control-violation hearing; reenacting s.  
3192 903.046, F.S., relating to Purpose of and criteria for  
3193 bail determination; reenacting s. 907.043, F.S.,  
3194 relating to Pretrial release; citizens' right to know;  
3195 reenacting s. 921.141, F.S., relating to Sentence of  
3196 death or life imprisonment for capital felonies;  
3197 further proceedings to determine sentence; reenacting  
3198 s. 938.10, F.S., relating to Additional court cost  
3199 imposed in cases of certain crimes; reenacting s.  
3200 943.0435, F.S., relating to Sexual offenders required  
3201 to register with the department; penalty; reenacting  
3202 s. 943.0436, F.S., relating to Duty of the court to  
3203 uphold laws governing sexual predators and sexual  
3204 offenders; reenacting s. 943.0437, F.S., relating to  
3205 Commercial social networking websites; reenacting s.  
3206 943.0584, F.S., relating to Criminal history records  
3207 ineligible for court-ordered expunction or court-  
3208 ordered sealing; reenacting s. 944.606, F.S., relating  
3209 to Sexual offenders; notification upon release;  
3210 reenacting s. 944.607, F.S., relating to Notification  
3211 to Department of Law Enforcement of information on  
3212 sexual offenders; reenacting s. 944.607, F.S.,  
3213 relating to Notification to Department of Law  
3214 Enforcement of information on sexual offenders;  
3215 reenacting s. 944.608, F.S., relating to Notification  
3216 to Department of Law Enforcement of information on  
3217 career offenders; reenacting s. 944.609, F.S.,  
3218 relating to Career offenders; notification upon



3219 release; reenacting s. 947.1405, F.S., relating to  
3220 Conditional release program; reenacting s. 948.06,  
3221 F.S., relating to Violation of probation or community  
3222 control; revocation; modification; continuance;  
3223 failure to pay restitution or cost of supervision;  
3224 reenacting s. 948.06, F.S., relating to Violation of  
3225 probation or community control; revocation;  
3226 modification; continuance; failure to pay restitution  
3227 or cost of supervision; reenacting s. 948.063, F.S.,  
3228 relating to Violations of probation or community  
3229 control by designated sexual offenders and sexual  
3230 predators; reenacting s. 948.064, F.S., relating to  
3231 Notification of status as a violent felony offender of  
3232 special concern; reenacting s. 948.12, F.S., relating  
3233 to Intensive supervision for postprison release of  
3234 violent offenders; reenacting s. 948.30, F.S.,  
3235 relating to Additional terms and conditions of  
3236 probation or community control for certain sex  
3237 offenses; reenacting s. 948.31, F.S., relating to  
3238 Evaluation and treatment of sexual predators and  
3239 offenders on probation or community control;  
3240 reenacting s. 985.04, F.S., relating to Oaths;  
3241 records; confidential information; reenacting s.  
3242 985.481, F.S., relating to Sexual offenders  
3243 adjudicated delinquent; notification upon release;  
3244 reenacting s. 985.481, F.S., relating to Sexual  
3245 offenders adjudicated delinquent; notification upon  
3246 release; reenacting s. 985.4815, F.S., relating to  
3247 Notification to Department of Law Enforcement of



3248 information on juvenile sexual offenders; reenacting  
3249 s. 985.4815, F.S., relating to Notification to  
3250 Department of Law Enforcement of information on  
3251 juvenile sexual offenders; reenacting s. 985.4815,  
3252 F.S., relating to Notification to Department of Law  
3253 Enforcement of information on juvenile sexual  
3254 offenders; reenacting s. 985.4815, F.S., relating to  
3255 Notification to Department of Law Enforcement of  
3256 information on juvenile sexual offenders; reenacting  
3257 s. 1012.467, F.S., relating to Noninstructional  
3258 contractors who are permitted access to school grounds  
3259 when students are present; background screening  
3260 requirements; reenacting s. 794.056, F.S., relating to  
3261 Rape Crisis Program Trust Fund; reenacting s. 938.085,  
3262 F.S., relating to Additional cost to fund rape crisis  
3263 centers; reenacting s. 903.133, F.S., relating to Bail  
3264 on appeal; prohibited for certain felony convictions;  
3265 reenacting s. 1012.467, F.S., relating to  
3266 Noninstructional contractors who are permitted access  
3267 to school grounds when students are present;  
3268 background screening requirements; reenacting s.  
3269 775.0862, F.S., relating to Sexual offenses against  
3270 students by authority figures; reclassification;  
3271 reenacting s. 948.013, F.S., relating to  
3272 Administrative probation; reenacting s. 92.55, F.S.,  
3273 relating to Judicial or other proceedings involving  
3274 victim or witness under the age of 18, a person who  
3275 has an intellectual disability, or a sexual offense  
3276 victim or witness; special protections; use of therapy



3277 animals or facility dogs; reenacting s. 934.255, F.S.,  
3278 relating to Subpoenas in investigations of sexual  
3279 offenses; reenacting s. 943.0595, F.S., relating to  
3280 Automatic sealing of criminal history records;  
3281 reenacting s. 947.1405, F.S., relating to Conditional  
3282 release program; reenacting s. 948.30, F.S., relating  
3283 to Additional terms and conditions of probation or  
3284 community control for certain sex offenses; reenacting  
3285 s. 948.31, F.S., relating to Evaluation and treatment  
3286 of sexual predators and offenders on probation or  
3287 community control; reenacting s. 943.0515, F.S.,  
3288 relating to Retention of criminal history records of  
3289 minors; reenacting s. 985.481, F.S., relating to  
3290 Sexual offenders adjudicated delinquent; notification  
3291 upon release; reenacting s. 985.4815, F.S., relating  
3292 to Notification to Department of Law Enforcement of  
3293 information on juvenile sexual offenders; reenacting  
3294 s. 1012.315, F.S., relating to Disqualification from  
3295 employment; reenacting s. 944.607, F.S., relating to  
3296 Notification to Department of Law Enforcement of  
3297 information on sexual offenders; reenacting s.  
3298 985.4815, F.S., relating to Notification to Department  
3299 of Law Enforcement of information on juvenile sexual  
3300 offenders; reenacting s. 944.607, F.S., relating to  
3301 Notification to Department of Law Enforcement of  
3302 information on sexual offenders; reenacting s.  
3303 985.4815, F.S., relating to Notification to Department  
3304 of Law Enforcement of information on juvenile sexual  
3305 offenders; reenacting s. 944.607, F.S., relating to



954436

3306 Notification to Department of Law Enforcement of  
3307 information on sexual offenders; reenacting s.  
3308 985.4815, F.S., relating to Notification to Department  
3309 of Law Enforcement of information on juvenile sexual  
3310 offenders; reenacting s. 921.0022, F.S., relating to  
3311 Criminal Punishment Code; offense severity ranking  
3312 chart; reenacting s. 938.085, F.S., relating to  
3313 Additional cost to fund rape crisis centers;  
3314 reenacting s. 944.606, F.S., relating to Sexual  
3315 offenders; notification upon release; reenacting s.  
3316 944.607, F.S., relating to Notification to Department  
3317 of Law Enforcement of information on sexual offenders;  
3318 reenacting s. 985.481, F.S., relating to Sexual  
3319 offenders adjudicated delinquent; notification upon  
3320 release; reenacting s. 985.4815, F.S., relating to  
3321 Notification to Department of Law Enforcement of  
3322 information on juvenile sexual offenders; reenacting  
3323 s. 944.607, F.S., relating to Notification to  
3324 Department of Law Enforcement of information on sexual  
3325 offenders; reenacting s. 985.4815, F.S., relating to  
3326 Notification to Department of Law Enforcement of  
3327 information on juvenile sexual offenders; reenacting  
3328 s. 938.085, F.S., relating to Additional cost to fund  
3329 rape crisis centers; reenacting s. 944.607, F.S.,  
3330 relating to Notification to Department of Law  
3331 Enforcement of information on sexual offenders;  
3332 reenacting s. 985.4815, F.S., relating to Notification  
3333 to Department of Law Enforcement of information on  
3334 juvenile sexual offenders; reenacting s. 322.141,



954436

3335 F.S., relating to Color or markings of certain  
3336 licenses or identification cards; reenacting s.  
3337 794.056, F.S., relating to Rape Crisis Program Trust  
3338 Fund; reenacting s. 92.55, F.S., relating to Judicial  
3339 or other proceedings involving victim or witness under  
3340 the age of 18, a person who has an intellectual  
3341 disability, or a sexual offense victim or witness;  
3342 special protections; use of therapy animals or  
3343 facility dogs; reenacting s. 455.213, F.S., relating  
3344 to General licensing provisions; reenacting s.  
3345 489.553, F.S., relating to Administration of part;  
3346 registration qualifications; examination; reenacting  
3347 s. 507.07, F.S., relating to Violations; providing an  
3348 effective date.

By Senator Book

32-00115-21

2021234\_\_

1 A bill to be entitled  
 2 An act relating to sexual offender registration;  
 3 amending s. 943.0435, F.S.; redefining the term  
 4 "sexual offender"; providing an effective date.  
 5  
 6 Be It Enacted by the Legislature of the State of Florida:  
 7  
 8 Section 1. Paragraph (h) of subsection (1) of section  
 9 943.0435, Florida Statutes, is amended to read:  
 10 943.0435 Sexual offenders required to register with the  
 11 department; penalty.—  
 12 (1) As used in this section, the term:  
 13 (h)1. "Sexual offender" means a person who meets the  
 14 criteria in sub-subparagraph a., sub-subparagraph b., sub-  
 15 subparagraph c., or sub-subparagraph d., as follows:  
 16 a.(I) Has been convicted of committing, or attempting,  
 17 soliciting, or conspiring to commit, any of the criminal  
 18 offenses proscribed in the following statutes in this state or  
 19 similar offenses in another jurisdiction: s. 393.135(2); s.  
 20 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
 21 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former  
 22 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.  
 23 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.  
 24 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
 25 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;  
 26 s. 895.03, if the court makes a written finding that the  
 27 racketeering activity involved at least one sexual offense  
 28 listed in this sub-sub-subparagraph or at least one offense  
 29 listed in this sub-sub-subparagraph with sexual intent or

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-00115-21

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30 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense  
 31 committed in this state which has been redesignated from a  
 32 former statute number to one of those listed in this sub-sub-  
 33 subparagraph; and  
 34 (II) Has been released on or after October 1, 1997, from a  
 35 ~~the~~ sanction imposed for any conviction of an offense described  
 36 in sub-sub-subparagraph (I). For purposes of sub-sub-  
 37 subparagraph (I), a sanction imposed in this state or in any  
 38 other jurisdiction includes, ~~but is not limited to, a fine,~~  
 39 probation, community control, parole, conditional release,  
 40 control release, or incarceration in a state prison, federal  
 41 prison, private correctional facility, or local detention  
 42 facility, and does not meet the criteria for registration as a  
 43 sexual offender under any other law of this state. If no  
 44 sanction is imposed, then the person is deemed to be released  
 45 upon conviction;  
 46 b. Establishes or maintains a residence in this state and  
 47 who has not been designated as a sexual predator by a court of  
 48 this state but who has been designated as a sexual predator, as  
 49 a sexually violent predator, or by another sexual offender  
 50 designation in another state or jurisdiction and was, as a  
 51 result of such designation, subjected to registration or  
 52 community or public notification, or both, or would be if the  
 53 person were a resident of that state or jurisdiction, without  
 54 regard to whether the person otherwise meets the criteria for  
 55 registration as a sexual offender;  
 56 c. Establishes or maintains a residence in this state who  
 57 is in the custody or control of, or under the supervision of,  
 58 any other state or jurisdiction as a result of a conviction for

Page 2 of 4

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32-00115-21 2021234\_\_

59 committing, or attempting, soliciting, or conspiring to commit,  
 60 any of the criminal offenses proscribed in the following  
 61 statutes or similar offense in another jurisdiction: s.  
 62 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
 63 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
 64 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
 65 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
 66 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;  
 67 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;  
 68 s. 847.0145; s. 895.03, if the court makes a written finding  
 69 that the racketeering activity involved at least one sexual  
 70 offense listed in this sub-subparagraph or at least one offense  
 71 listed in this sub-subparagraph with sexual intent or motive; s.  
 72 916.1075(2); or s. 985.701(1); or any similar offense committed  
 73 in this state which has been redesignated from a former statute  
 74 number to one of those listed in this sub-subparagraph; or  
 75 d. On or after July 1, 2007, has been adjudicated  
 76 delinquent for committing, or attempting, soliciting, or  
 77 conspiring to commit, any of the criminal offenses proscribed in  
 78 the following statutes in this state or similar offenses in  
 79 another jurisdiction when the juvenile was 14 years of age or  
 80 older at the time of the offense:  
 81 (I) Section 794.011, excluding s. 794.011(10);  
 82 (II) Section 800.04(4)(a)2. where the victim is under 12  
 83 years of age or where the court finds sexual activity by the use  
 84 of force or coercion;  
 85 (III) Section 800.04(5)(c)1. where the court finds  
 86 molestation involving unclothed genitals;  
 87 (IV) Section 800.04(5)(d) where the court finds the use of

Page 3 of 4

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32-00115-21 2021234\_\_

88 force or coercion and unclothed genitals; or  
 89 (V) Any similar offense committed in this state which has  
 90 been redesignated from a former statute number to one of those  
 91 listed in this sub-subparagraph.  
 92 2. For all qualifying offenses listed in sub-subparagraph  
 93 1.d., the court shall make a written finding of the age of the  
 94 offender at the time of the offense.  
 95  
 96 For each violation of a qualifying offense listed in this  
 97 subsection, except for a violation of s. 794.011, the court  
 98 shall make a written finding of the age of the victim at the  
 99 time of the offense. For a violation of s. 800.04(4), the court  
 100 shall also make a written finding indicating whether the offense  
 101 involved sexual activity and indicating whether the offense  
 102 involved force or coercion. For a violation of s. 800.04(5), the  
 103 court shall also make a written finding that the offense did or  
 104 did not involve unclothed genitals or genital area and that the  
 105 offense did or did not involve the use of force or coercion.  
 106 Section 2. This act shall take effect upon becoming a law.

Page 4 of 4

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2021

Meeting Date

234

Bill Number (if applicable)

Topic Sexual Offender Registration

Amendment Barcode (if applicable)

Name Jeff Pearson

Job Title Chief of Police

Address 510 Cinnamon Dr

Street

Phone (321) 773-4400

Satellite Beach

FL

32937

City

State

Zip

Email jpearson@satellitebeach.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-26-2021

Meeting Date

SB 234  
Bill Number (if applicable)

Topic SEX OFFENDER REGISTRATION

Amendment Barcode (if applicable)

Name ANTONIO WRIGHT

Job Title CAPTAIN

Address 2500 W COLONIAL DR  
Street

Phone 407-259-7448

ORLANDO FL 32804  
City State Zip

Email antonio.wright@co.fl.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1.26.21

*Meeting Date*

234

*Bill Number (if applicable)*

Topic Sexual Offender Registration

*Amendment Barcode (if applicable)*

Name Ron Draa

Job Title Chief of Staff

Address 2331 Phillips Road

*Street*

Phone 850.410.7020

Tallahassee

FL

32308

Email ronalddraa@fdle.state.fl.us

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Department of Law Enforcement

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** December 29, 2020

---

I respectfully request that **Senate Bill 234**, relating to Sexual Offender Registration, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Lauren Book".

---

Senator Lauren Book  
Florida Senate, District 32



# 2021 FDLE LEGISLATIVE BILL ANALYSIS



<b>BILL INFORMATION</b>	
<b>BILL NUMBER:</b>	SB 234
<b>BILL TITLE:</b>	Sexual Offender Registration
<b>BILL SPONSOR:</b>	Senator Book
<b>EFFECTIVE DATE:</b>	Upon Becoming a Law

<b>COMMITTEES OF REFERENCE</b>
1) Criminal Justice
2) Judiciary
3) Rules
4)
5)

<b>CURRENT COMMITTEE</b>
Criminal Justice

<b>SIMILAR BILLS</b>	
<b>BILL NUMBER:</b>	HB 41, SB 126, 162
<b>SPONSOR:</b>	Representative Chaney and Senators Hutson, Perry

<b>PREVIOUS LEGISLATION</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

<b>IDENTICAL BILLS</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
No

<b>BILL ANALYSIS INFORMATION</b>	
<b>DATE OF ANALYSIS:</b>	December 11, 2020
<b>LEAD AGENCY ANALYST:</b>	Lori Mizell
<b>ADDITIONAL ANALYST(S):</b>	Chad Brown, Mary Coffee, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Elisabeth Yerkes
<b>FISCAL ANALYST:</b>	Deshawn Byrd

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Amends s. 943.0435, FS, redefining the term “sexual offender”; deleting certain language. This act shall take effect upon becoming a law.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently s. 943.0435(1)(h)1.a.(II), FS, provides that a sexual offender who has been released on or after a specified date from the sanction imposed for any conviction of an offense described in s. 943.0435(1)(h)1.a.(I), F.S. is required to register as a sexual offender in Florida. This sub-sub-subparagraph also defines a sanction as including, but not limited to, “...a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.”
2. **EFFECT OF THE BILL:** Seeks to modify who is required to register under s. 943.0435(1)(h)1.a., FS, as it pertains to release from sanctions for a qualifying sexual offense. Adds language “...and does not meet the criteria for registration as a sexual offender under any other law of this state. If no sanction is imposed, then the person is deemed to be released upon conviction;”.
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y  N

If yes, explain:	
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number:	

### 6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y N

Board:	
--------	--

Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y  N**

Revenues:	
Expenditures:	The proposed changes may require local Florida sheriff's offices and police departments to update sexual offender/predator documentation, policies and procedures and training materials.
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y  N**

Revenues:	
Expenditures:	The proposed changes will require FDLE to update sexual offender/predator registration forms and e-forms, the Florida Sexual Offender/Predator Public Registry website, the CJNet website and training materials.
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y  N**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y  N**

Does the bill increase taxes, fees or fines?	
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Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

**TECHNOLOGY IMPACT**

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y  N**

If yes, describe the anticipated impact to the agency including any fiscal impact.	This bill has minimal impact.
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**FEDERAL IMPACT**

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	
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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

<p>Issues/concerns/comments and recommended action:</p>	<ul style="list-style-type: none"> <li>• The new language added by the bill in lines 42-45, "and does not otherwise meet the criteria for registration as a sexual offender under any other laws of this state," is meant to ensure that those who are under supervision of the Florida Department of Corrections are only required to register under Chapter 944, FS. The bill language as presented could restrict prosecutors from charging sexual offenders in violation of registration requirements under multiple subsections of s. 943.0435(1)(h)1, FS.</li> <li>• There are multiple ways a sexual offender can meet the criteria for registration under s. 943.0435, FS. Within s. 943.0435, FS, a sexual offender can meet multiple criteria simultaneously. Moore v. State, 992 S0. 2d 862 (Fla. 5<sup>th</sup> 2008).</li> <li>• The concern with the bill language is a court may misconstrue the amended statute language to mean a sexual offender does <u>not</u> meet the criteria under s. 943.0435 (1)(h)1.a., FS, if they meet the criteria under a different subsection such as s. 943.0435(1)(h)a. b or c, FS.</li> <li>• There is a potential basis for argument against a person's requirement to register as a result of confusion regarding who is or is not required to register under this statute or other registration related statutes.</li> <li>• The following suggested language serves to clarify the issue regarding who is required to register under s. 943.0435(1)(h)1.a., FS. The addition of the last sentence ensures any non-standard sentencing does not exclude the convicted person from registration requirements.                  "(II) has been released on or after October 1, 1997, from <u>the a</u> sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I) <u>and does not otherwise meet the criteria for registration as a sexual offender under Chapter 944.</u> For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, <del>but is not limited to, a fine,</del> probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention</li> </ul>
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	facility. <u>If no sanction is imposed the person is deemed to be released upon conviction.</u>
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**ADDITIONAL COMMENTS**

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## FLORIDA DEPARTMENT OF LAW ENFORCEMENT REGISTRY AMENDMENTS - TALKING POINTS

The department is proposing amendments to improve public safety in Florida by ensuring the effectiveness of the sexual offender registry. The changes include:

- Allow online registration of vehicle information and address changes in the sexual offender/predator registry. Current law requires sexual offenders and predators to report in-person to the sheriff's office within 48 hours after any change in vehicle owned. While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has created a significant burden.

Since 2007, registrants have had the ability to electronically report and update certain supplemental registration information such as email addresses, Internet identifiers and phone numbers, through a secure online system. Allowing registrants the option to report their vehicle information and address changes online will facilitate faster access to this critical information and reduce the impact on sheriff's offices.

- Clarify registration requirement relating to the timing of reporting of international travel or a change of residence to another state by changing "within 48 hours before the date..." to "at least 48 hours before the date." This removes any possibility of misinterpretation or argument about when the reporting is required.
- Create a mechanism of petition for relief of registration for individuals required to register based solely upon a requirement to register in another state for an offense that is *not* similar to a conviction offense requiring registration in Florida and whose registration in that other state is held confidential, not for public release, and for criminal justice purposes only.

As Florida does not have a non-public registry, such an individual's registration information would be publicly available. From an equal protection standpoint, these circumstances may be found objectionable by the courts as the current laws treat similarly situated persons convicted in Florida differently than those convicted in other states. Not correcting this issue increases the risk that a court's decision could impact the entire registry.

- None of the changes should have a fiscal impact.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 274

INTRODUCER: Senator Perry

SUBJECT: Juvenile Diversion Program Expunction

DATE: January 25, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	<b>Favorable</b>
2.			ACJ	
3.			AP	

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**I. Summary:**

SB 274 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including felony offenses, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, this bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill may have a negative fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

This bill is effective on July 1, 2021.

## II. Present Situation:

### Juvenile Criminal History Records

In contrast to adult criminal history records,<sup>1</sup> which are generally accessible to the public, Florida law treats juvenile offender records that are in the jurisdiction of juvenile courts differently, making such records confidential and exempt from public disclosure.<sup>2</sup>

Such records that contain confidential and exempt information may be disclosed only to:

- Authorized personnel of the court;
- The Department of Juvenile Justice (DJJ) and its designees;
- The Department of Corrections;
- The Florida Commission on Offender Review;
- Law enforcement agents;
- School superintendents and their designees;
- Any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile; and
- Others entitled under ch. 985, F.S., to receive that information, or upon order of the court.<sup>3</sup>

However, the following exceptions apply:

- The name, photograph, address, and crime or arrest report of a juvenile is not considered confidential and exempt if the juvenile has been:
  - Taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;
  - Charged with a violation of law which, if committed by an adult, would be a felony;
  - Found to have committed an offense which, if committed by an adult, would be a felony;or
  - Transferred to adult court pursuant to part X of ch. 985, F.S.;
- A law enforcement agency may release a copy of the juvenile offense report to the victim of the offense;<sup>4</sup>
- A law enforcement agency must notify the superintendent of schools that a juvenile is alleged to have committed a delinquent act when a juvenile of any age is taken into custody for an offense that would have been a felony if committed by an adult, or a crime of violence;<sup>5</sup>

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<sup>1</sup> “Criminal history record” means any nonjudicial record maintained by a criminal justice agency containing criminal history information. Section 943.045(6), F.S.

<sup>2</sup> Section 985.04(1)(a), F.S. Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.

<sup>3</sup> Section 985.04(1)(b), F.S.

<sup>4</sup> Information gained by the victim pursuant to ch. 985, F.S., including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies. Section 985.04(3), F.S.

<sup>5</sup> When a juvenile of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney must notify the superintendent of the juvenile’s school that the juvenile has been charged with such felony or delinquent act. The information obtained by the superintendent of schools must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the juvenile and the director of transportation. The principal must immediately notify the juvenile’s classroom teachers, the juvenile’s assigned bus driver, and any other school personnel whose duties include direct supervision of the juvenile. Section 985.04(4)(b), F.S.

- Records maintained by the DJJ, including copies of records maintained by the court, which pertain to a juvenile found to have committed a delinquent act which, if committed by an adult, would be a crime specified in s. 435.04, F.S., may not be destroyed for 25 years after the juvenile's final referral to the DJJ, except in cases of the death of the juvenile; and
- Records in the custody of the DJJ may be inspected only upon order of the Secretary or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper.<sup>6</sup>

In these instances, the criminal history information<sup>7</sup> of a juvenile will be available to:

- A criminal justice agency for criminal justice purposes on a priority basis and free of charge;
- The person to whom the record relates, or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided such person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in ss. 943.0585(4) or 943.059(4), F.S., for the purposes specified therein, and to any person within such agency or entity who has direct responsibility for employment, access authorization, or licensure decisions.<sup>8</sup>

Records pertaining to juveniles committed to or supervised by the DJJ are retained until a juvenile reaches the age of 24 years or 26 years in the case of a serious or habitual delinquent child, and the destruction of such records are governed by ch. 943, F.S.<sup>9</sup>

### **Juvenile Diversion Program Expunction**

The exceptions to accessibility of a criminal history record do not apply if the record has been sealed<sup>10</sup> or expunged.<sup>11</sup> The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody of the record.<sup>12</sup> The following are authorized expungement processes for the criminal history record of a juvenile:

- Juvenile diversion;<sup>13</sup>
- Automatic juvenile;<sup>14</sup> and

<sup>6</sup> Section 985.04, F.S.

<sup>7</sup> "Criminal history information" means information collected by criminal justice agencies on persons, which information consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and the disposition thereof. The term does not include identification information, such as biometric records, if the information does not indicate involvement of the person in the criminal justice system. Section 943.045(5), F.S.

<sup>8</sup> Section 943.053(3)(c)1.a.-d., F.S.

<sup>9</sup> Section 985.04(7)(b), F.S.

<sup>10</sup> "Sealing of a criminal history record" means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein. Section 943.045(19), F.S.

<sup>11</sup> Section 943.053(3)(b), F.S.

<sup>12</sup> Criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.

<sup>13</sup> Section 943.0582, F.S.

<sup>14</sup> Section 943.0515, F.S.

- Early juvenile.<sup>15</sup>

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.<sup>16</sup> The term diversion has been broadly used over the years, but typically refers to the placement of an individual on a track that is less restrictive and affords more opportunities for rehabilitation and restoration. Whether it is a prearrest or postarrest diversion program, the goal of the program is to maximize the opportunity for success and minimize the likelihood of recidivism.<sup>17</sup>

There are certain enumerated diversion programs eligible for diversion expunction under s. 943.0582, F.S. The following eligible programs are:

- Civil citation or similar pre-arrest diversion (s. 985.12, F.S.).
- Pre-arrest or post-arrest diversion programs (s. 985.125, F.S.).
- Neighborhood restorative justice programs (s. 985.155, F.S.).
- Community arbitration programs (s. 985.16, F.S.).
- Another program to which a referral is made by the state attorney (s. 985.15, F.S.).

The decision to refer a juvenile to a diversion program is at the discretion of either the law enforcement officer that confronted the juvenile at the time of the incident or the state attorney that has been referred the case. While participation in a diversion program may be restricted to misdemeanor offenses, there are some programs that enable a juvenile who has committed a felony to participate. In FY 2019-20, 2,770 juveniles were referred to diversion programs for felony offenses.<sup>18</sup>

After completing an eligible diversion program, a juvenile seeking to have his or her nonjudicial arrest record expunged must:

- Submit an application for diversion expunction to the FDLE.
- Submit, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that:
  - He or she has completed the diversion program;
  - The arrest was for a misdemeanor; and
  - He or she has not otherwise been charged by the state attorney with or have been found to have committed, any criminal offense or comparable ordinance violation.
- Have not, before the application for expunction, been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.<sup>19</sup>

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<sup>15</sup> Section 943.0515(1)(b)2., F.S.

<sup>16</sup> Florida Department of Juvenile Justice, *Glossary*, available at <http://www.djj.state.fl.us/youth-families/glossary> (last accessed January 22, 2021).

<sup>17</sup> Center for Health & Justice at TASC, *A National Survey of Criminal Justice Diversion Programs and Initiatives*, pg. 6, (December 2013), available at [https://www.centerforhealthandjustice.org/chjweb/tertiary\\_page.aspx?id=77&title=No-Entry:-A-National-Survey-of-Criminal-Justice-Diversion-Programs-and-Initiatives](https://www.centerforhealthandjustice.org/chjweb/tertiary_page.aspx?id=77&title=No-Entry:-A-National-Survey-of-Criminal-Justice-Diversion-Programs-and-Initiatives) (last accessed January 22, 2021).

<sup>18</sup> Florida Department of Juvenile Justice, *Delinquency Profile 2020, Statewide Diversion – Felony Youth*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last accessed January 22, 2021).

<sup>19</sup> Section 943.0582(3), F.S.

If the juvenile meets such criteria and submits the appropriate documentation, the FDLE must expunge the nonjudicial arrest record of the juvenile.<sup>20</sup>

A criminal history record that is expunged under this section is only available to criminal justice agencies<sup>21</sup> for the purpose of determining eligibility for diversion programs, a criminal investigation, or making a prosecutorial decision.<sup>22</sup> Records that are eligible for expunction under this section must be sealed.<sup>23</sup> A juvenile who successfully completes a diversion program for a first time misdemeanor offense may lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record, unless the inquiry is made by a criminal justice agency for one of the purposes stated above.<sup>24</sup>

A juvenile who receives an expunction under this section is not prevented from petitioning for the expunction or sealing of a later criminal history record for human trafficking victim expunction,<sup>25</sup> court ordered expunction,<sup>26</sup> or court ordered sealing,<sup>27</sup> if the juvenile is otherwise eligible for relief under those sections.<sup>28</sup>

### III. Effect of Proposed Changes:

This bill amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including felony offenses, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, this bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill is effective on July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>20</sup> Section 943.0582(3), F.S.

<sup>21</sup> “Criminal justice agency” means: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice. Section 942.045(11), F.S.

<sup>22</sup> Section 943.0582(2)(b)1., F.S.

<sup>23</sup> Section 943.0582(2)(b)2., F.S.

<sup>24</sup> Section 985.126(5), F.S.

<sup>25</sup> Section 943.0583, F.S.

<sup>26</sup> Section 943.0585, F.S.

<sup>27</sup> Section 943.059, F.S.

<sup>28</sup> Section 943.0582, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The FDLE may see an increase in applications for diversion expunction from juveniles who have completed diversion for a felony offense. The FDLE reports that there are currently 26,903 minors with 63,343 juvenile felony arrest charges with or without disposition that may qualify for juvenile diversion expunction. The FDLE estimates it needs \$24,050 to make programmatic changes to its technology systems. Further, the FDLE is requesting two new positions, totaling \$124,921 (\$117,131 recurring) to address the workload.<sup>29</sup> Therefore, this bill may have a negative fiscal impact on the FDLE.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>29</sup> Florida Department of Law Enforcement, *2021 Agency Analysis of SB 274* (January 21, 2021), at 4. On file with Senate Committee on Criminal Justice.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 943.0582 and 985.126.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Perry

8-00575-21

2021274\_\_

1 A bill to be entitled  
 2 An act relating to juvenile diversion program  
 3 expunction; amending s. 943.0582, F.S.; requiring the  
 4 Department of Law Enforcement to expunge the  
 5 nonjudicial arrest record of certain minors who have  
 6 successfully completed a diversion program for any  
 7 offense, rather than only a misdemeanor offense;  
 8 amending s. 985.126, F.S.; authorizing a minor who  
 9 successfully completes a diversion program for any  
 10 offense, rather than only for a first-time misdemeanor  
 11 offense, to lawfully deny or fail to acknowledge  
 12 certain information; providing an effective date.  
 13  
 14 Be It Enacted by the Legislature of the State of Florida:  
 15  
 16 Section 1. Subsection (1) and paragraph (b) of subsection  
 17 (3) of section 943.0582, Florida Statutes, are amended to read:  
 18 943.0582 Diversion program expunction.—  
 19 (1) Notwithstanding any law dealing generally with the  
 20 preservation and destruction of public records, the department  
 21 shall adopt rules to provide for the expunction of a nonjudicial  
 22 record of the arrest of a minor who has successfully completed a  
 23 diversion program ~~for a misdemeanor offense~~.  
 24 (3) The department shall expunge the nonjudicial arrest  
 25 record of a minor who has successfully completed a diversion  
 26 program if that minor:  
 27 (b) Submits to the department, with the application, an  
 28 official written statement from the state attorney for the  
 29 county in which the arrest occurred certifying that he or she

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

8-00575-21

2021274\_\_

30 has successfully completed that county's diversion program, ~~that~~  
 31 ~~his or her participation in the program was based on an arrest~~  
 32 ~~for a misdemeanor~~, and that he or she has not otherwise been  
 33 charged by the state attorney with, or found to have committed,  
 34 any criminal offense or comparable ordinance violation.  
 35 Section 2. Subsection (5) of section 985.126, Florida  
 36 Statutes, is amended to read:  
 37 985.126 Diversion programs; data collection; denial of  
 38 participation or expunged record.—  
 39 (5) A minor who successfully completes a diversion program  
 40 ~~for a first-time misdemeanor offense~~ may lawfully deny or fail  
 41 to acknowledge his or her participation in the program and an  
 42 expunction of a nonjudicial arrest record under s. 943.0582,  
 43 unless the inquiry is made by a criminal justice agency, as  
 44 defined in s. 943.045, for a purpose described in s.  
 45 943.0582(2)(b)1.  
 46 Section 3. This act shall take effect July 1, 2021.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



# 2021 FDLE LEGISLATIVE BILL ANALYSIS



<b>BILL INFORMATION</b>	
<b>BILL NUMBER:</b>	SB 274
<b>BILL TITLE:</b>	Juvenile Diversion Program Expunction
<b>BILL SPONSOR:</b>	Senator Perry
<b>EFFECTIVE DATE:</b>	July 1, 2021

<b>COMMITTEES OF REFERENCE</b>
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

<b>CURRENT COMMITTEE</b>
Criminal Justice

<b>SIMILAR BILLS</b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>IDENTICAL BILLS</b>	
<b>BILL NUMBER:</b>	93
<b>SPONSOR:</b>	Smith

<b>PREVIOUS LEGISLATION</b>	
<b>BILL NUMBER:</b>	700
<b>SPONSOR:</b>	Perry
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	Died in returning messages

<b>Is this bill part of an agency package?</b>
No

<b>BILL ANALYSIS INFORMATION</b>	
<b>DATE OF ANALYSIS:</b>	January 21, 2021
<b>LEAD AGENCY ANALYST:</b>	Charles Schaeffer
<b>ADDITIONAL ANALYST(S):</b>	Robin Sparkman, Ebony Tisby, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Wes Petkovsek
<b>FISCAL ANALYST:</b>	Cynthia Barr, Deshawn Byrd

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Amends s. 943.0582, FS, deleting the requirement which limits diversion program expunction to programs for misdemeanor offenses. It also amends s. 985.126, FS, removing the provision that the diversion program is only for a misdemeanor offense.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Under current law, a minor who has gone through a diversion program for a misdemeanor offense may apply to have the record expunged from the department's criminal history file. FDLE's Seal and Expunge section received 501 juvenile diversion expunction applications between 2018 – 2020.
2. **EFFECT OF THE BILL:** Amends s. 943.0582, FS, by removing the requirement limiting the diversion program expunction to programs for misdemeanor offenses. The proposed language will further allow minors who complete a juvenile diversion program for felonies or comparable ordinance violations to apply for the juvenile diversion expunction. As of January 2021, the Computerized Criminal History (CCH) files contain 64,343 arrest charges for 26,903 individuals with records containing a juvenile felony arrest with or without a disposition. There is no fee associated with the juvenile diversion application process.
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y  N

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number:	

### 6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y N

Board:	
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Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y  N**

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y  N**

Revenues:	No revenue impact. Currently, the \$75 processing fee associated with other forms of sealing and expunction certificate of eligibility applications is not assessed on juvenile diversion applications.
Expenditures:	<ul style="list-style-type: none"> <li>As of January 2021, there were 26,903 minors with 64,343 juvenile felony arrest charges with or without a disposition which may qualify for juvenile diversion expunction. Assuming 10 percent of eligible persons apply for a juvenile diversion expunction, the department would receive additional 2,690 new applications for processing. The unit responsible for sealing and expunging of records currently averages 12 weeks to process requests. Without additional resources, the resulting new workload could significantly increase the already lengthy processing time for all applicants. The department is requesting two FTE positions (Criminal Justice Information Analyst I and Criminal Justice Information Analyst II) totaling \$124,921 (\$117,131 recurring) to address the new workload.</li> <li>The department is also requesting technology improvements totaling \$24,050 (see Technology Impact below).</li> </ul> <p><b>Total FDLE Fiscal: \$148,971 (\$117,131 recurring)</b></p>
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y  N**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y  N**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

**TECHNOLOGY IMPACT**

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y  N**

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The department estimates \$24,050 to make programmatic changes to CCH including analysis, development, integration testing and deployment. This does not include any non-functional testing and support time. The implication of the legislation will have an effect on CCH in the following capacities:</p> <ul style="list-style-type: none"> <li>• The Juvenile Diversion Expunction application located on the Intake Web will require a verbiage change and once edited, the application will need to be integrated.</li> <li>• The Reason for Denial "Charge requested is a Felony or Violent Misdemeanor" under the Precertification Outcome section will need to be removed.</li> </ul>
--	--

**FEDERAL IMPACT**

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y  N**

If yes, describe the anticipated impact including any fiscal impact.	
--	--

**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments and recommended action:	Because the bill does not revise s. 943.0582(4), FS, it appears a person that received a diversion expunction for a felony or a misdemeanor would presumably not be eligible to also apply for early expunction of additional juvenile records under s. 943.0515(1)(b)2, FS. FDLE respectfully requests that the Legislature clearly specified its intent on this point.
--	--

**ADDITIONAL COMMENTS**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/2021

*Meeting Date*

274

*Bill Number (if applicable)*

Topic Juvenile Diversion Program Expunction

*Amendment Barcode (if applicable)*

Name Jeff Pearson

Job Title Chief of Police

Address 510 Cinnamon Dr

*Street*

Phone (321) 773-4400

Satellite Beach

FL

32937

Email jpearson@satellitebeach.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

*Meeting Date*

274

*Bill Number (if applicable)*

Topic Diversion Program Expunction

*Amendment Barcode (if applicable)*

Name Jessica Yeary

Job Title Public Defender, 2nd Judicial Circuit

Address 301 S. Monroe St.

*Street*

Phone 850-606-1000

Tallahassee

FL

32301

Email jessica.yeary@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Public Defender Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

26 Jan 2021

Meeting Date

274

Bill Number (if applicable)

Topic Juvenile Diversion

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

SB 274

Bill Number (if applicable)

Topic SB 274

Amendment Barcode (if applicable)

Name Nick Millar

Job Title Director of Legislative Affairs

Address Street

Phone

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing AMI Kids, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

274

Bill Number (if applicable)

Topic Juvenile Diversion Expunction

Amendment Barcode (if applicable)

Name Christian Minor

Job Title Executive Director

Address 1300 N Adams St.

Phone 321-223-4232

Street

Tallahassee

FL

32303

City

State

Zip

Email CMinor@Fija.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing FL Juvenile Justice Association

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

274  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name Jasmyne Henderson

Job Title Attorney

Address 1024 E. Park Avenue  
Street

Phone \_\_\_\_\_

TAM FL 32301  
City State Zip

Email jasmyne@pitman-law.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 166  
SB 274  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic SB 274 - Juvenile Diversion Amendment Barcode (if applicable) \_\_\_\_\_

Name Jodi Stevens

Job Title Director of Government Affairs - Pace Center for

Address 6745 Phillips Industrial Blvd. Phone 904-383-9903

Street Jacksonville State \_\_\_\_\_ Zip 32256 Email Jodi.Stevens@pacecenter.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing PACE Center for Girls and Fl. Juvenile Justice Assn.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** January 12, 2021

---

I respectfully request that **Senate Bill #274**, relating to Juvenile Diversion Program Expunction, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

  
\_\_\_\_\_  
Senator Keith Perry  
Florida Senate, District 8

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 288

INTRODUCER: Criminal Justice Committee and Senator Rouson

SUBJECT: Victims of Reform School Abuse

DATE: January 26, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Fav/CS
2.			ATD	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 288 creates the “Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act” which provides a process for former students from these schools who were abused to be certified as victims. The bill defines “victim of Florida reform school abuse,” as a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement. More than 500 former students have come forward with reports of physical, mental, and sexual abuse by school staff.

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the Department of State (DOS) by September 1, 2021. The DOS must notify the applicant of its determination within five business days after processing and reviewing the application. If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse. The DOS must also submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives by December 31, 2021.

The bill also provides that a victim of Florida reform school abuse may file a claim under ch. 960, F.S., which governs victim assistance, including victim compensation. The bill defines “crime,” for purposes of filing a claim and requires that a claim must be brought within 1 year of the effective date of the bill.

This bill may have an indeterminate fiscal impact on the DOS. Additionally, this bill may have an indeterminate negative fiscal impact on the Office of the Attorney General (OAG) for claims filed under ch. 960. See Section V. Fiscal Impact Statement.

This act is effective upon becoming law.

## II. Present Situation:

### The Dozier School

From January 1, 1900, to June 30, 2011, the state operated the Florida State Reform School in Marianna.<sup>1</sup> Over the years, the school has operated under several different names: Florida State Reform School, Florida Industrial School for Boys, Florida School for Boys, and Arthur G. Dozier School for Boys (hereinafter, Dozier School). The school originally housed children as young as five years old, who had committed minor criminal offenses, such as incorrigibility and truancy. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.<sup>2</sup>

As early as 1901, reports surfaced of children being chained to walls in irons, brutal whippings, and peonage (involuntary servitude).<sup>3</sup> In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.<sup>4</sup>

In 1955, the state opened a new reform school in Okeechobee to address overcrowding at the Dozier School.<sup>5</sup> Staff members of the Dozier School were transferred to the Florida School for Boys at Okeechobee (hereinafter, Okeechobee School), where they instituted the same degrading policies and abusive practices as those implemented at the Dozier School.<sup>6</sup>

In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.<sup>7</sup> These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement to investigate the Dozier School and the deaths that were alleged and occurred at the school.<sup>8</sup>

---

<sup>1</sup> Erin H. Kimmerle, Ph.D., E. Christian Wells, Ph.D., and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, pg. 22 (January 18, 2018), available at: [usf-final-dozier-summary-2016.pdf](https://www.floridalegal.org/ufc/wp-content/uploads/2016/06/ufsf-final-dozier-summary-2016.pdf) ([publicbroadcasting.net](https://www.floridalegal.org/publicbroadcasting.net)) (last visited January 13, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 12.

<sup>4</sup> *Id.* at 27.

<sup>5</sup> *Id.* at 22.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 30.

<sup>8</sup> *Id.*

## **University of South Florida Forensic Investigation**

From 2013-2016, the University of South Florida conducted a forensic investigation, funded by the Legislature, into the deaths and burials at the Dozier School.<sup>9</sup> The purpose of the investigation was to determine the location of the missing children buried at the Dozier School.<sup>10</sup>

The investigation found records of nearly 100 deaths from 1900-1973.<sup>11</sup> Of those 100 deaths recorded in documents maintained by the school, two deaths were staff members, and the remaining were boys ranging in age from 6 to 18 years old. The investigation noted that the historical records are incomplete and the causes and manners of death for the majority of cases are unknown. The investigation also found that there are at least 22 deaths in the records for which no burial location is documented.<sup>12</sup>

The investigation noted that while other state-run institutions kept detailed records of burials made on the property of the institution, the Dozier School did not keep any records showing the location of specific graves, nor did the school mark the graves.<sup>13</sup> The investigation implied that this lack of record keeping suggests an intent to cloud the true number of burials located at the school and potentially hinder later investigations into the true causes of individual's deaths.<sup>14</sup>

Additionally, the investigation revealed that the Dozier School consistently underreported the number of deaths that occurred in their bi-annual reports to the state.<sup>15</sup>

## **Legislative Resolutions Addressing Florida Reform School Abuse at the Dozier School and the Okeechobee School**

During the 2017 Legislative Session, the Legislature unanimously issued a formal apology to the victims of reform school abuse and their families with the passage of CS/HR 1335 and CS/SR 1440. In those resolutions, the Legislature acknowledged that the treatment of boys who were sent to the Dozier School and the Okeechobee School was cruel, unjust, and a violation of human decency. The resolutions expressed regret for the treatment of boys at the schools and apologized to the victims for the wrongs committed against them by state employees. The resolutions also expressed commitment to ensuring that children who have been placed in the state's care will be protected from abuse and violations of fundamental human decency.<sup>16</sup>

## **Florida Crimes Compensation Act**

The Florida Crimes Compensation Act<sup>17</sup> authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims

---

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 11.

<sup>11</sup> *Id.* at 14.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 15.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See CS/HR 1335 and CS/SR 1440 (2017).

<sup>17</sup> Sections 960.01-960.28, F.S.

of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.<sup>18</sup>

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

- A victim.
- An intervenor.
- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.<sup>19</sup>

Claims will generally be denied if filed for or on behalf of a person who:

- Committed or added in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender (HFO), habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.<sup>20</sup>

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a HFO or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.<sup>21</sup>

Any award granted, must be granted on an "actual need" basis. An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.<sup>22</sup> Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.<sup>23</sup>

### III. Effect of Proposed Changes:

The bill creates the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act." The bill provides numerous whereas clauses explaining the schools' history of abuse, the investigations that followed, and the Legislature's formal apology in 2017.

<sup>18</sup> Attorney General, *Victim Compensation Brochure*, available at: [2019 Victims brochure v8 - Nov 12 2019.ai \(myfloridalegal.com\)](#) (last visited January 14, 2021).

<sup>19</sup> Section 960.065(1), F.S.

<sup>20</sup> Section 960.065(2), F.S.

<sup>21</sup> Section 960.065(3), F.S.

<sup>22</sup> Section 960.13(2), F.S.

<sup>23</sup> Section 960.13(3), F.S.

The bill defines a “victim of Florida reform school abuse” as a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by personnel of the school during the period of confinement.

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the DOS by September 1, 2021. The application must include:

- An affidavit stating:
  - That the applicant was confined at the Dozier School or the Okeechobee School;
  - The beginning and ending days of the confinement; and
  - That the applicant was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the confinement.
- Documentation from the State Archives of Florida, the Dozier School, or the Okeechobee School, demonstrating that the applicant was confined at the school for any length of time between 1940 and 1975; and
- Proof of identification, including a current form of photo ID.

The bill requires the DOS to examine an application within 30 days of receipt and notify the applicant of any errors or omissions or request any additional information relevant to the review of the application. If the DOS notifies the applicant of any errors or omissions, or requests additional information, the applicant has 15 days after such notification to complete or modify the application.

The bill prohibits the DOS from denying an application due to the applicant’s failure to correct an error or submit additional information requested by the DOS if the DOS failed to timely notify the applicant of the error.

The bill requires the DOS to notify the applicant of its determination within five business days after processing and reviewing the application. If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse.

The bill requires the DOS to process and review all completed applications within 90 days after receipt of the application. By December 31, 2021, the DOS must have reviewed and processed all applications submitted by September 1, 2021, and submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives.

The bill, notwithstanding s. 960.07, F.S., which provides timelines for filing a claim, provides that victims of Florida reform school abuse are eligible to file a claim under ch. 960, F.S. A victim or an intervenor must file a claim under this act within 1 year after the effective date of the bill.

The bill defines “crime,” for purposes of filing a claim under ch. 960, F.S., as a felony or misdemeanor offense committed by an adult or a juvenile which results in a mental or physical injury or death. A mental injury must be verified by a psychologist, a physician who has completed a residency in psychiatry, or by a physician who has obtained certification as an expert witness.

The act is effective upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill provides that the DOS is responsible for processing applications for persons seeking to be certified as a victim of Florida reform school abuse. While it is unknown how many persons will seek this certification, the bill indicates that there are over 500 people who have come forward as victims. This bill may have a negative indeterminate fiscal impact on the DOS due to the processing of applications.

Additionally, this bill may have a negative indeterminate fiscal impact on the OAG for additional claims filed under ch. 960, F.S. The benefits for claims are payable from the Crimes Compensation Trust Fund (CCTF). During FY 2019-20, the OAG paid on average \$3,691.56 per payout, for a total of \$7,519,710. While it is unknown how many

persons will file a claim, the bill indicates that there are over 500 people who have come forward as victims.<sup>24</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 26, 2021:**

The committee substitute:

- Adds a reference to s. 459.0066, F.S., to include osteopathic physicians to the list of doctors who can verify a mental injury.
- Makes technical changes including the addition of missing quotation marks and a reference to s. 960.03(9), F.S., for the definition of “intervenor.”

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>24</sup> Email from Daniel Olson, Government Affairs Director (January 21, 2021)(on file with Senate Criminal Justice Committee).



892684

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2021	.	
	.	
	.	
	.	

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The Committee on Criminal Justice (Rouson) recommended the following:

**Senate Amendment**

Delete lines 154 - 174  
and insert:  
Statutes, by a "victim of Florida reform school abuse," as defined in section 1 of this act, or an intervenor, as defined in s. 960.03(9), Florida Statutes, the term "crime" means a felony or misdemeanor offense committed by an adult or a juvenile which results in a mental or physical injury or death. A mental injury must be verified by a psychologist licensed



892684

11 under chapter 490, Florida Statutes; by a physician licensed  
12 under chapter 458 or chapter 459, Florida Statutes, who has  
13 completed an accredited residency in psychiatry; or by a  
14 physician licensed under chapter 458 or chapter 459, Florida  
15 Statutes, who has obtained certification as an expert witness  
16 pursuant to s. 458.3175 or s. 459.0066, Florida Statutes.

17 (2) Notwithstanding s. 960.065(2)(c) and (3), Florida  
18 Statutes, for purposes of a claim under chapter 960, Florida  
19 Statutes, a "victim of Florida reform school abuse," as defined  
20 in section 1 of this act, is eligible to file a claim under  
21 chapter 960, Florida Statutes.

22 (3) Notwithstanding s. 960.07, Florida Statutes, for  
23 purposes of a claim under chapter 960, Florida Statutes, by a  
24 "victim of Florida reform school abuse," as defined in section 1  
25 of this act, the victim or intervenor, as defined in s.  
26 960.03(9), Florida Statutes, may file a claim relating  
27

By Senator Rouson

19-00338-21

2021288\_\_

1 A bill to be entitled  
 2 An act relating to victims of reform school abuse;  
 3 providing a short title; defining the term "victim of  
 4 Florida reform school abuse"; requiring a person  
 5 seeking certification under the act to apply to the  
 6 Department of State by a certain date; prohibiting the  
 7 estate of a decedent or the personal representative of  
 8 a decedent from submitting an application on behalf of  
 9 the decedent; requiring that the application include  
 10 certain information and documentation; requiring the  
 11 department to examine the application, notify the  
 12 applicant of any errors or omissions, and request any  
 13 additional information within a certain timeframe;  
 14 specifying the timeframe that the applicant has to  
 15 revise and complete the application after such  
 16 notification; requiring the department to review and  
 17 process a completed application within a certain  
 18 timeframe; prohibiting the department from denying an  
 19 application for specified reasons and under certain  
 20 circumstances; requiring the department to notify the  
 21 applicant of its determination within a certain  
 22 timeframe; requiring the department to certify an  
 23 applicant as a victim of Florida reform school abuse  
 24 if the department determines that the application  
 25 meets the requirements of the act; requiring the  
 26 department to submit a list of all certified victims  
 27 to the Legislature by a specified date; providing  
 28 exceptions from specified requirements for crime  
 29 victim compensation eligibility for applications

Page 1 of 7

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

19-00338-21

2021288\_\_

30 submitted under the act; providing an effective date.  
 31  
 32 WHEREAS, the Florida State Reform School, also known as the  
 33 "Florida Industrial School for Boys," the "Florida School for  
 34 Boys," the "Arthur G. Dozier School for Boys," and the "Dozier  
 35 School," was opened by the state in 1900 in Marianna to house  
 36 children who had committed minor criminal offenses, such as  
 37 incorrigibility, truancy, and smoking, as well as more serious  
 38 offenses, such as theft and murder, and  
 39 WHEREAS, throughout the Dozier School's history, reports of  
 40 abuse, suspicious deaths, and threats of closure plagued the  
 41 school, and  
 42 WHEREAS, many former students of the Dozier School have  
 43 sworn under oath that they were beaten at a facility located on  
 44 the school grounds known as the "White House," and  
 45 WHEREAS, a psychologist employed at the Dozier School  
 46 testified under oath at a 1958 United States Senate Judiciary  
 47 Committee hearing that boys at the school were beaten by an  
 48 administrator, that the blows were severe and dealt with great  
 49 force with a full arm swing over the head and down, that a  
 50 leather strap approximately 10 inches long was used, and that  
 51 the beatings were "brutality," and  
 52 WHEREAS, a former Dozier School employee stated in  
 53 interviews with law enforcement that in 1962 several employees  
 54 of the school were removed from the facility based upon  
 55 allegations that they made sexual advances toward boys at the  
 56 facility, and  
 57 WHEREAS, a forensic investigation funded by the Legislature  
 58 and conducted from 2013 to 2016 by the University of South

Page 2 of 7

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

19-00338-21 2021288\_\_

59 Florida found incomplete records regarding deaths and 45 burials  
60 that occurred at the Dozier School between 1900 and 1960 and  
61 found that families were often notified of the death after the  
62 child was buried or were denied access to their child's remains  
63 at the time of burial, and

64 WHEREAS, the excavations conducted as part of the forensic  
65 investigation revealed more burials than reported in official  
66 records, and

67 WHEREAS, in 1955, the state opened a new reform school in  
68 Okeechobee called the Florida School for Boys at Okeechobee,  
69 referred to in this act as the "Okeechobee School," to address  
70 overcrowding at the Dozier School, and staff members of the  
71 Dozier School were transferred to the Okeechobee School, where  
72 similar disciplinary practices were implemented, and

73 WHEREAS, many former students of the Okeechobee School have  
74 sworn under oath that they were beaten at a facility on school  
75 grounds known as the "Adjustment Unit," and

76 WHEREAS, more than 500 former students of the Dozier School  
77 and the Okeechobee School have come forward with reports of  
78 physical, mental, and sexual abuse by school staff during the  
79 1940s, 1950s, 1960s, and 1970s and the resulting trauma that has  
80 endured throughout their lives, and

81 WHEREAS, this is a unique and shameful chapter in the  
82 history of the state during which children placed into the  
83 custody of state employees were subjected to physical, mental,  
84 and sexual abuse rather than the guidance and compassion that  
85 children in state custody should receive, and

86 WHEREAS, during the 2017 Legislative Session, the  
87 Legislature unanimously issued a formal apology to the victims

Page 3 of 7

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19-00338-21 2021288\_\_

88 of abuse with the passage of CS/SR 1440 and CS/HR 1335,  
89 expressing regret for the treatment of boys who were sent to the  
90 Dozier School and the Okeechobee School; acknowledging that the  
91 treatment was cruel, unjust, and a violation of human decency;  
92 and expressing its commitment to ensure that children who have  
93 been placed in the state's care will be protected from abuse and  
94 violations of human decency, NOW, THEREFORE,

95  
96 Be It Enacted by the Legislature of the State of Florida:

97  
98 Section 1. (1) This act may be known and cited as the  
99 "Arthur G. Dozier School for Boys and Okeechobee School Abuse  
100 Victim Certification Act."

101 (2) As used in this act, the term "victim of Florida reform  
102 school abuse" means a living person who was confined at the  
103 Arthur G. Dozier School for Boys or the Okeechobee School at any  
104 time between 1940 and 1975 and who was subjected to mental,  
105 physical, or sexual abuse perpetrated by school personnel during  
106 the period of confinement.

107 (3) (a) A person seeking to be certified as a victim of  
108 Florida reform school abuse must submit an application to the  
109 Department of State no later than September 1, 2021. The estate  
110 of a decedent or the personal representative of a decedent may  
111 not submit an application on behalf of the decedent.

112 (b) The application must include:

113 1. An affidavit stating that the applicant was confined at  
114 the Arthur G. Dozier School for Boys or the Okeechobee School,  
115 the beginning and ending dates of the confinement, and that the  
116 applicant was subjected to mental, physical, or sexual abuse

Page 4 of 7

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19-00338-21 2021288\_\_

117 perpetrated by school personnel during the period of  
 118 confinement;  
 119 2. Documentation from the State Archives of Florida, the  
 120 Arthur G. Dozier School for Boys, or the Okeechobee School which  
 121 shows that the applicant was confined at the school or schools  
 122 for any length of time between 1940 and 1975; and  
 123 3. Positive proof of identification, including a current  
 124 form of photographic identification.  
 125 (c) Within 30 calendar days after receipt of an  
 126 application, the Department of State shall examine the  
 127 application and notify the applicant of any errors or omissions  
 128 or request any additional information relevant to the review of  
 129 the application. The applicant has 15 calendar days after  
 130 receiving such notification to revise and complete the  
 131 application by correcting any errors or omissions or submitting  
 132 any additional information requested by the department. The  
 133 department shall review and process each completed application  
 134 within 90 calendar days after receipt of the application.  
 135 (d) The Department of State may not deny an application due  
 136 to the applicant's failure to correct an error or omission or  
 137 failure to submit any additional information requested by the  
 138 department if the department failed to timely notify the  
 139 applicant of such error or omission or timely request additional  
 140 information as provided in paragraph (c).  
 141 (e) The Department of State shall notify the applicant of  
 142 its determination within 5 business days after reviewing and  
 143 processing the application. If the department determines that an  
 144 application meets the requirements of this section, the  
 145 department must certify the applicant as a victim of Florida

Page 5 of 7

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19-00338-21 2021288\_\_

146 reform school abuse.  
 147 (f) No later than December 31, 2021, the Department of  
 148 State must review and process all applications submitted by  
 149 September 1, 2021, and must submit a list of all certified  
 150 victims of Florida reform school abuse to the President of the  
 151 Senate and the Speaker of the House of Representatives.  
 152 Section 2. (1) Notwithstanding s. 960.03(3), Florida  
 153 Statutes, for purposes of a claim under chapter 960, Florida  
 154 Statutes, by a victim of Florida reform school abuse, as defined  
 155 in section 1 of this act, or an intervenor, as defined in s.  
 156 960.03(9), Florida Statutes, the term "crime" means a felony or  
 157  misdemeanor offense committed by an adult or a juvenile which  
 158 results in a mental or physical injury or death. A mental injury  
 159 must be verified by a psychologist licensed under chapter 490,  
 160 Florida Statutes; by a physician licensed under chapter 458 or  
 161 chapter 459, Florida Statutes, who has completed an accredited  
 162 residency in psychiatry; or by a physician licensed under  
 163 chapter 458 or chapter 459, Florida Statutes, who has obtained  
 164 certification as an expert witness pursuant to s. 458.3175,  
 165 Florida Statutes.  
 166 (2) Notwithstanding s. 960.065(2)(c) and (3), Florida  
 167 Statutes, for purposes of a claim under chapter 960, Florida  
 168 Statutes, a "victim of Florida reform school abuse," as defined  
 169 in section 1 of this act, is eligible to file a claim under  
 170 chapter 960, Florida Statutes.  
 171 (3) Notwithstanding s. 960.07, Florida Statutes, for  
 172 purposes of a claim under chapter 960, Florida Statutes, by a  
 173 "victim of Florida reform school abuse," as defined in section 1  
 174 of this act, the victim or intervenor may file a claim relating

Page 6 of 7

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19-00338-21 2021288\_\_

175 to such abuse within 1 year after the effective date of this  
176 act.

177 Section 3. This act shall take effect upon becoming a law.

## Arnold, Sue

---

**From:** Stokes, Amanda  
**Sent:** Friday, January 22, 2021 4:33 PM  
**To:** Arnold, Sue  
**Subject:** FW: SB 288 Agency Analysis

---

**From:** Stokes, Amanda  
**Sent:** Friday, January 22, 2021 9:11 AM  
**To:** Jones, Lauren <Jones.Lauren@flsenate.gov>  
**Subject:** FW: SB 288 Agency Analysis

---

**From:** Daniel Olson <[Daniel.Olson@myfloridalegal.com](mailto:Daniel.Olson@myfloridalegal.com)>  
**Sent:** Thursday, January 21, 2021 4:23 PM  
**To:** Stokes, Amanda <[Stokes.Amanda@flsenate.gov](mailto:Stokes.Amanda@flsenate.gov)>  
**Subject:** RE: SB 288 Agency Analysis

Amanda,

Let me know if you have any follow up questions. Thank you for your patience's.

### CONCERNS -

The bill is not withstanding disqualifiers including s. 960.065(2) and (3). That means that if a student was later convicted of homicide and is serving a life-sentence, we'd still have to consider paying for their mental health counseling even though they're in a correctional facility.

### TECHNICAL DEFICIENCIES -

Compensation from this office is a "payor of last resort" per s. 960.13(3), Fla. Stat. We normally do not pay compensation when recovery is available from other sources like health insurance.

### FISCAL WRITE-UP

Over the past few years, benefits payable from the Crimes Compensation Trust Fund (CCTF) have increased numerous times by both legislative action and improved outreach, but without any corresponding increase in funding. Trending lower crime rates, decriminalization, diversion programs and criminal justice reform have resulted in fewer collections from fines, fees, and restitution. Despite a general revenue reserve funded last year, a focused campaign to enforce collections, freezing position vacancies, downsizing staff and cutting benefits, the ability to process payments to victims remains diminished. Providing benefits to an additional victim population such as those identified on this bill, will compound the situation.

### AVERAGE AMOUNT -

During SFY 2019-20, a total of 5,907 Victim Compensation (includes benefits for funeral burial and grief counseling) claims were determined eligible in VANext. Of those, 2,037 claimants sent a total of 4,303 bills that BVC approved for payment. Keeping in mind that 65% of the eligible claims had no payments because insurance waiver provisions were issued, or because qualified bills we never received, we paid on average \$3,691.56 per claim, for a total sum of \$7,519,710.

**Maximum cost of potential services-**

According to the bill, more than 500 former students reported allegations of mental, physical, and sexual abuse perpetrated by school personnel between 1940-1975. Assuming the Department of State certifies all 500, if the bill passes, we need \$1,845,780.

---

**From:** Stokes, Amanda <[Stokes.Amanda@flsenate.gov](mailto:Stokes.Amanda@flsenate.gov)>

**Sent:** Friday, January 15, 2021 8:47 AM

**To:** Daniel Olson <[Daniel.Olson@myfloridalegal.com](mailto:Daniel.Olson@myfloridalegal.com)>

**Subject:** SB 288 Agency Analysis

Good morning,

A request for an agency analysis was just sent for SB 288, and I wanted to give you a heads up, and ask when you think we can get an analysis from you? If we can get something by next week it would be really helpful. Even if it's not a full analysis, if you could take a look at the bill and email me any thoughts/concerns you may have, that would be great.

Thank you,

**Amanda D. Stokes**

Senior Attorney  
Criminal Justice Committee  
510 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100  
850 487 5192  
850 410 0077 (FAX)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/26/21

Meeting Date

288

Bill Number (if applicable)

892489

Amendment Barcode (if applicable)

Topic Victims of Reform School Abuse

Name Steve Winn

Job Title Exec. Director

Address 2540 Blairstone Pines Dr  
Street

Phone 878-3456

Tall. FL 32301  
City State Zip

Email winnsv@earthlink.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Osteopathic Medical Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/26/21

Meeting Date

288 as amended

Bill Number (if applicable)

Topic Victims of Reform School Abuse

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Exec. Director

Address 2544 Blairstone Pines Dr

Phone 878-3056

Street

Tall. FL 32301

Email winnsr@earthlink.net

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Osteopathic Medical Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason W. B. Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** January 14, 2021

---

I respectfully request that **Senate Bill # 288**, relating to Reform School Abuse, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Darryl Ervin Rouson".

---

Senator Darryl Ervin Rouson  
Florida Senate, District 19

# CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 1/26/2021 9:00:53 AM

Ends: 1/26/2021 9:45:03 AM

Length: 00:44:11

9:00:53 AM Meeting called to order by Chair Pizzo  
9:00:57 AM Roll call by Administrative Assistant Sue Arnold  
9:01:11 AM Quorum present  
9:01:18 AM Comments from Chair Pizzo  
9:01:43 AM Introduction of Tab 1, SB 44, Drones by Chair Pizzo  
9:01:58 AM Explanation of SB 44 by Senator Wright  
9:03:19 AM Introduction of Late-filed Amendment, Barcode No. 516022 by Chair Pizzo  
9:03:31 AM Explanation of Late-filed Amendment by Senator Wright  
9:03:50 AM Comments from Chair Pizzo  
9:04:18 AM Question from Senator Taddeo  
9:04:29 AM Response from Senator Wright  
9:05:18 AM Closure waived on Amendment by Senator Wright  
9:05:22 AM Amendment Barcode No. 516022 adopted  
9:05:34 AM Comments from Chair Pizzo  
9:05:50 AM Question from Senator Powell  
9:05:55 AM Response from Senator Wright  
9:06:59 AM Follow-up question from Senator Powell  
9:07:07 AM Response from Senator Wright  
9:08:15 AM Question from Senator Taddeo  
9:08:20 AM Response from Senator Wright  
9:09:27 AM Follow-up question from Senator Taddeo  
9:09:43 AM Response from Senator Wright  
9:10:27 AM Question from Chair Pizzo  
9:10:35 AM Response from Senator Wright  
9:11:42 AM Follow-up question from Chair Pizzo  
9:11:51 AM Response from Senator Wright  
9:12:52 AM Comments from Staff Director Lauren Jones  
9:14:31 AM Senator Powell in debate  
9:15:37 AM Senator Baxley in debate  
9:17:19 AM Senator Taddeo in debate  
9:17:53 AM Chair Pizzo in debate  
9:19:01 AM Jeff Pearson, Chief of Police, Florida Police Chiefs Association waives in support  
9:19:07 AM Angela Drzewiecki, Lobbyist, Florida Sheriffs Association waives in support  
9:19:11 AM Ray Coleburn, Executive Director, Florida Fire Chiefs Association waives in support  
9:19:20 AM Antorrio Wright, Captain, Orange County Sheriff's Office waives in support  
9:19:36 AM Closure on Bill waived by Senator Wright  
9:19:43 AM Roll call by AA  
9:19:49 AM CS/SB 44 reported favorably  
9:20:05 AM Introduction of Tab 5, SB 234 by Chair Pizzo  
9:20:11 AM Explanation of SB 234, Sexual Offender Registration by Senator Book  
9:20:33 AM Introduction of Amendment Barcode No. 954436 by Chair Pizzo  
9:20:39 AM Explanation of Amendment by Senator Book  
9:23:51 AM Comments from Chair Pizzo  
9:23:59 AM Closure on Amendment waived by Senator Book  
9:24:02 AM Amendment Barcode No. 954436 adopted  
9:24:06 AM Jeff Pearson, Chief of Police, Florida Police Chiefs Association waives in support  
9:24:11 AM Antorrio Wright, Captain, Orange County Sheriff's Office waives in support  
9:24:20 AM Ron Draa, Chief of Staff, Florida Department of Law Enforcement waives in support  
9:24:37 AM Closure on Bill waived by Senator Book  
9:24:43 AM Comments from Chair Pizzo  
9:24:59 AM Roll call by AA  
9:25:06 AM CS/SB 234 reported favorably

9:25:15 AM Introduction of Tab 2, SB 144 by Chair Pizzo  
9:25:36 AM Explanation of SB 144, Searches of Cellular Phones and other Electronic Devices by Senator Brandes  
9:27:07 AM Comments from Chair Pizzo  
9:27:19 AM Jeff Pearson, Chief of Police, Florida Police Chiefs Association waives in opposition  
9:27:24 AM Jorge Chamizo, Attorney, Florida Association of Criminal Defense Lawyers waives in support  
9:27:32 AM Jessica Yeary, Public Defender, 2nd Judicial Circuit waives in support  
9:27:37 AM Diego Echeverri, Americans for Prosperity waives in support  
9:27:48 AM Comments from Chair Pizzo  
9:28:24 AM Senator Gainer in debate  
9:28:28 AM Response from Senator Brandes  
9:30:09 AM Closure waived by Senator Brandes  
9:30:15 AM Roll call by AA  
9:30:20 AM SB 144 reported favorably  
9:30:32 AM Introduction of Tab 6, SB 274 by Chair Pizzo  
9:30:37 AM Explanation of SB 274, Juvenile Diversion Program Expunction by Senator Perry  
9:31:13 AM Jeff Pearson, Chief of Police, Florida Police Chiefs Association in opposition  
9:31:20 AM Jessica Yeary, Public Defender, 2nd Judicial Circuit waives in support  
9:31:23 AM Diego Echeverri, Americans for Prosperity waives in support  
9:31:27 AM Nick Millar, Director of Legislative Affairs, AMIKids, Inc. waives in support  
9:31:31 AM Christian Minor, Executive Director, Florida Juvenile Justice Association waives in support  
9:31:37 AM Jasmyne Henderson, Attorney, Broward County waives in support  
9:31:41 AM Jodi Stevens, Director of Government Affairs, Pace Center for Girls and Florida Juvenile Justice Association waives in support  
9:31:54 AM Comments from Chair Pizzo  
9:32:09 AM Question from Senator Taddeo  
9:32:18 AM Response from Senator Perry  
9:32:25 AM Question from Senator Gainer  
9:32:30 AM Response from Senator Perry  
9:33:14 AM Question from Senator Brandes  
9:33:19 AM Response from Senator Perry  
9:33:40 AM Comments from Chair Pizzo  
9:33:44 AM Senator Baxley in debate  
9:35:52 AM Senator Perry in closure  
9:35:57 AM Roll call by AA  
9:36:34 AM SB 274 reported favorably  
9:36:46 AM Introduction of Tab 3, SB 166 by Chair Pizzo  
9:36:51 AM Explanation of SB 166, Public Records/Nonjudicial Record of the Arrest of a Minor by Senator Perry  
9:37:08 AM Introduction of Amendment Barcode No. 922102 by Chair Pizzo  
9:37:11 AM Explanation of Amendment by Senator Perry  
9:37:25 AM Closure waived on Amendment by Senator Perry  
9:37:28 AM Amendment Barcode No. 922102 adopted  
9:37:33 AM Nick Millar, Director of Legislative Affairs, AMIKids, Inc. waives in support  
9:37:38 AM Jessica Yeary, Public Defender, 2nd Judicial Circuit waives in support  
9:37:41 AM Diego Echeverri, Americans for Prosperity waives in support  
9:37:43 AM Jasmyne Henderson, Attorney, Broward County waives in support  
9:37:48 AM Jodi Stevens, Director of Government Affairs, Pace Center for Girls and Florida Juvenile Justice Association waives in support  
9:38:02 AM Closure waived on Bill by Senator Perry  
9:38:06 AM Roll call by AA  
9:38:13 AM CS/SB 166 reported favorably  
9:38:27 AM Chair turned over to Senator Perry  
9:38:46 AM Introduction of Tab 4, SB 206 by Chair Perry  
9:38:59 AM Explanation of SB 206, Visiting County and Municipal Detention Facilities by Senator Pizzo  
9:39:49 AM Comments from Chair Perry  
9:39:53 AM Jessica Yeary, Public Defender, 2nd Judicial Circuit waives in support  
9:40:04 AM Closure waived by Senator Pizzo  
9:40:09 AM Roll call by AA  
9:40:14 AM SB 206 reported favorably  
9:40:27 AM Chair returned to Chair Pizzo  
9:40:34 AM Introduction of Tab 7, SB 288 by Chair Pizzo  
9:40:43 AM Explanation of SB 288, Victims of Reform School Abuse by Senator Rouson  
9:41:42 AM Introduction of Amendment Barcode No. 892684 by Chair Pizzo

**9:41:46 AM** Explanation of Amendment by Senator Rouson  
**9:42:17 AM** Comments from Chair Pizzo  
**9:42:25 AM** Steve Winn, Executive Director, Florida Osteopathic Medical Association waives in support of Amendment  
**9:42:37 AM** Closure waived on Amendment by Senator Rouson  
**9:42:39 AM** Amendment Barcode No. 892684 adopted  
**9:42:44 AM** Steve Winn, Executive Director, Florida Osteopathic Medical Association waives in support of Bill  
**9:42:56 AM** Question from Chair Pizzo  
**9:43:09 AM** Response from Senator Rouson  
**9:43:55 AM** Closure waived on Bill by Senator Rouson  
**9:43:58 AM** Roll call by AA  
**9:44:02 AM** CS/SB 288 reported favorably  
**9:44:14 AM** Comments from Chair Pizzo  
**9:44:28 AM** Senator Perry moves to give staff license to make technical and conforming changes to the Committee Substitutes  
**9:44:45 AM** Senator Boyd moves to adjourn  
**9:44:53 AM** Meeting adjourned